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A communist trial

New York

[1921?]

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# A COMMUNIST TRIAL

EXTRACTS FROM THE TESTIMONY OF  
C. E. RUTHENBERG  
AND CLOSING ADDRESS TO THE JURY BY  
ISAAC E. FERGUSON

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PUBLISHED BY THE  
NATIONAL DEFENSE COMMITTEE  
7 BANK STREET, NEW YORK CITY

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## INTRODUCTION

The extracts from the testimony and speech to the jury during the trial of C. E. Ruthenberg and I. E. Ferguson presented in the following pages, contain what is probably the most revolutionary challenge made in a court in the United States. The defendants presented their views without compromise or apology. Their attitude was: *We believe these to be the facts as to the existing industrial system and these the principles which must guide the working class in abolishing that system. You may send us to prison for proclaiming our adherence to these principles, but that threat will not cause us to change our belief in and support of these principles.*

The facts in regard to the case, from the record of which the testimony and speech contained herein are taken, are as follows:

On June 21st to June 24th, 1919, there was held in New York City a conference of delegates representing the Left Wing of the Socialist Party for the purpose of deciding upon further action to secure a restatement of the principles of the Socialist Party in harmony with Revolutionary Socialism, or Communism, and to gain control of that organization for the Left Wing.

At this convention a National Council of nine members was elected, consisting of Maxmilian Cohen, I. E. Ferguson, John Balam, Louis C. Fraina, Benjamin Gitlow, James Larkin, Eadmonn McAlpine, C. E. Ruthenberg and Bertram Wolfe. Pressure of work prevented the conference from adopting a manifesto and the work of drafting the manifesto, and authority to publish it, was vested in the National Council, which was charged with continuing the work of the Conference. Subsequently the Manifesto of the Left Wing was published in the "Revolutionary Age" of July 5th, 1919.

The conference of the Left Wing was held at a time when the Lusk Committee was just beginning its activities, the headquarters of the Left Wing of Local Greater New York being raided during the conference. As the result of these activities of the Lusk Committee the members of the National Council were indicted, (November, 1919, after the Left Wing had been merged into the Communist Party and the Communist Labor Party) and charged with violating the Criminal Anarchy Law of the State of New York.

This law had been passed in 1902, after the assassination of President McKinley, and was directed against the doctrine that organized government should be overthrown by force and violence or assassination, or any unlawful means. It was the doctrine of Johann Most—of terrorist anarchism—that it was aimed at.

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There were no prosecutions under this law until seventeen years later, when it was resurrected for the purpose of putting into prison, not those who advocated "Criminal Anarchy" as defined by the law, but Revolutionary Socialists or Communists. While the Communist advocacy may be detrimental to the capitalist class and the capitalist system, it is not that of "Criminal Anarchy" as defined by this law. Any thinking person will be quickly convinced of this by reading the contents of this pamphlet.

Four of the members of the National Council of the Left Wing, Benjamin Gitlow, I. E. Ferguson, James Larkin and C. E. Ruthenberg, were arrested under the indictment and tried and convicted. Although their cases have been appealed, the law being challenged as to its constitutionality and as to the interpretation that Communism is "Criminal Anarchy", these men are now serving sentences of from five to ten years, the right of bail pending the final decision of their cases having been denied. Besides these men, Harry Winitsky, former Executive Secretary of Local Greater New York of the Communist Party, has been convicted for membership in the Communist Party under the same law through a similar distortion and is serving the same sentence. Alonen and Paivio, two members of the I. W. W., are also imprisoned under this law. During 1921 Paul Manko was added to the number of "criminal anarchists", he being charged with the distribution of Communist leaflets, for which he is to serve from two and a half to nine years.

In the case presented in this pamphlet, the testimony of the defendants that they had not written the Manifesto of the Left Wing or even read it until it appeared in the "Revolutionary Age" of July 5th, was unchallenged. C. E. Ruthenberg never attended any meeting of the National Council, having returned to Cleveland even before the end of the Conference of the Left Wing. I. E. Ferguson left the city after the conference and did not return until after the July 5th issue of the paper had been published.

Although it thus appeared, and the prosecution did not challenge these facts, that neither of these two men had been connected with the writing, publishing or circulating of the "Revolutionary Age" of July 5th in the State of New York, being in other states while the work was being done, the fact that they had been elected members of the National Council was sufficient to secure a conviction under the rulings of Judge Bartow S. Weeks.

The fitness of Judge Weeks to sit as the judge in this case was challenged at the outset of the trial, an affidavit of prejudice being filed, based upon his activities in the Gitlow and Larkin trials. Having ruled upon his own fitness to sit as judge, Judge Weeks proceeded to secure the conviction of the defendants. He acted as prosecutor, not as a judge, as is shown, for example, by the examination of C. E. Ruthenberg recorded in this pamphlet. He

made a second prosecuting speech in submitting the case to the jury. His rulings of law contained conflicting theories for the admission of certain evidence and he also saw to it that any possible theory of finding the defendants guilty was impressed upon the jury, regardless of the indictment.

In all the Criminal Anarchy cases, except that of Manko, the indictment was drawn by a special grand jury, the trial was held before a judge especially appointed to try such cases and the jury was drawn from a special venire. Everything was done to make sure that everybody connected with the prosecution should have a strong class prejudice against those who advocated a change in the capitalist system.

This pamphlet is printed in order to show the character of the trial in question—the other trials before the same judge in which Alonen, Paivio, Gitlow, Winitsky and Larkin were convicted were of the same character. It also proves, through the testimony of C. E. Ruthenberg as to Communist principles, and the speech of I. E. Ferguson to the jury, that Communism is not "Criminal Anarchy", despite the fact that the ruling class has been able to put Communists in prison for terms of from five to ten years under the Criminal Anarchy Law.

The record of this case is quite voluminous because of the length of the trial, which lasted four weeks, and because of the many documents introduced. Expense prohibits the publication of the record in full. The selections herein have been made to show the principles of Communism, as enunciated by the defendants, in contrast with "Criminal Anarchy".

I. E. Ferguson, one of the defendants, acted as attorney for the defense throughout the case.

TESTIMONY OF  
CHARLES E. RUTHENBERG

CHARLES E. RUTHENBERG, *one of the defendants herein, called as a witness in behalf of the defendants, having been first duly affirmed, testified as follows:*

DIRECT EXAMINATION BY MR. FERGUSON.

Q. Will you state where you were born? A. Cleveland, Ohio.

Q. And when? A. July 9, 1882.

Q. And your age is 33? A. 38.

Q. When did you join the Socialist Party? A. In January, 1909.

Q. When did you first go to work for the Socialist Party? A. I was an official of the Socialist Party within two or three months from the time I joined it, to September 1, 1917, in some capacity. In June, 1917, I became a paid employe of the Socialist Party.

Q. That is, from 1909 to 1917, you were an official of one sort or another, but not a paid party worker? A. Yes.

Q. You became a paid party worker in June, 1917? A. Yes.

Q. What office did you hold in the party? A. I was elected recording secretary of the City Central Committee of Cleveland, Ohio, at that time, and remained in that position until 1912. At that time I was the candidate for Governor of the Socialist Party of Ohio, and made a lecture tour throughout the state; returned in November and became editor of the Cleveland Socialist; remained in that position until June, 1913, when I was elected Secretary and City Organizer, a position which I held continuously until September 1, 1919.

Q. Did you hold other positions temporarily in the Socialist Party? A. Yes, I have been delegate to conven-

tions and member of certain committees at different times during my activities in the Socialist Party.

Q. Delegate to what conventions? A. I was a delegate to the yearly state convention of the Socialist Party, beginning with the year 1910 and ending in 1919, and a delegate to the National Convention of the Socialist Party in 1912, National Committee Convention of 1915 and the National Emergency Convention of 1917.

Q. In 1919 were you elected to any position in the Socialist Party? A. I was the secretary and organizer of the Socialist Party. I was elected also a delegate to the Left Wing Conference.

Q. Were you elected to any position in the National Organization of the Socialist Party? A. I was elected a member of the National Executive Committee of the Socialist Party in 1919.

Q. Any other positions?

The Court: You are asking now about the Socialist Party only?

A. I have been a candidate for various offices for the Socialist Party.

Q. Were you a candidate for international delegate of the Socialist Party in 1919? A. Yes, I was elected international delegate of the Socialist Party in 1919.

Q. You stated you were a candidate for Governor in 1912. Were you a candidate for other public offices at different times? A. I was a candidate for State Treasurer in 1910; a candidate for Mayor of Cleveland in 1911; a candidate for Governor in 1912 and candidate for United States Senator in 1914; candidate for Mayor of Cleveland in 1915; candidate for Congress from the 20th district of Ohio in 1916; candidate for Mayor in 1917; candidate for Congress again in 1918 and a candidate for Mayor of Cleveland in 1919.

Q. In June, 1919, were you a candidate for public office? A. I was a candidate for Mayor of Cleveland. Petitions were in circulation to place my name on the ticket at that time.

The Court: Mayor on what ticket?

The Witness: The Cleveland election is a non-partisan election. I was nominated by the Socialist Party.

Q. In June, 1917, were you indicted, and for what offense? A. Yes, for making speeches—

The Court: No, no, wait a moment.

Mr. Ferguson: Under what law?

The Court: You must establish just exactly what the offense was that was charged in the indictment. You cannot have this witness characterize the form of the indictment.

BY MR. FERGUSON.

Q. Under what law? A. Under the conscription law.

Q. Which conscription law? A. The one passed on May 18, 1917.

Q. You were indicted in June, 1917, under the conscription law passed in May, 1917? A. Yes.

Q. You were tried when? A. July, 1917.

Q. Do you know what charge was made against you by the indictment in that case? A. The indictment was for "aiding, abetting, inducing a certain person not to register, through speeches made on the Public Square in the City of Cleveland," which this person is supposed to have heard.

Q. What was the result of that trial? A. I was found guilty and sentenced.

Q. Did you serve the sentence? A. Ten months.

Q. Beginning when? A. February 1, 1918.

Q. After the conviction and pending appeal were you at large? A. Yes, I was in the City of Cleveland, candidate for mayor, making speeches daily in my campaign as a candidate for mayor.

Q. You went all the way through that campaign during that period? A. Yes.

Q. And you were voted upon when? A. November, 1917, and polled 27,000 votes.

Q. Out of how many? A. About 100,000.

The witness was then examined as to the development of the Left Wing within the Socialist Party culminating in the Left Wing Conference (New York, June 21—24, 1919). In explanation of the official call to this conference, the witness was asked about the different Socialist and Communist Internationals, and about the differences between the Reformist (Moderate) Socialists and the Revolutionary (Communist) Socialists.

Q. Particularly as to Ohio, what was the Party's situation in Ohio in June, 1919? A. The Socialist Locals of Ohio were overwhelmingly Left Wing.

Q. Was there any split in the organization? A. There was not.

Q. Was whatever action that was taken to identify Ohio with the Left Wing faction action by regular Socialist organization of Ohio? A. It was.

Q. Did you, during the early part of 1919, and including the month of June, did you make criticisms of the policies of the official Socialist organization? A. Yes, sir.

Q. Did you hear others make such criticism? A. Yes.

Q. Did you read such criticism? A. Yes.

Q. Can you now tell us what was said by the Left Wingers with regard to the Socialist Party at that time? A. The criticism was of the platforms of the Socialist Party, which included a great number of so-called immediate demands. These demands dealt with immediate changes which the Party advocated, such as, for instance, the abolition of the Senate or the limitation of the hours of work of children, or industrial insurance, accident insurance and similar reforms. The criticism was that the Socialist Party through advocacy of such measures was misleading the working class into a belief that they could secure their emancipation from the oppression and exploitation to which they were subjected under the capitalist system, by achieving the enactment of such measures. The Left Wing contended, and the criticism was, that the Party should assume the position of demanding merely one thing, and that is the abolition of the capitalist system, and as the first step toward that end, the transference of political power from the capitalist class to the working class.

Q. Did this criticism state an opposition to betterment of conditions of workers now? A. No, it did not.

Q. Was it then simply an opposition to the Socialist Party doing one sort of thing or another? A. It was opposition to the Socialist Party laying emphasis in its campaign, propaganda and educational work upon these measures as against the ultimate aim for which the Party was supposed to stand.



BY THE COURT.

Q. Those were what is called parliamentary measures? A. No, those questions were not involved in what I have stated. It was the matter of the aim.

BY MR. FERGUSON.

Q. Go on and state other criticisms that you know that were made, if any, of the official Socialist Party by the Left Wing? A. Also that the Socialist Party emphasized the participation in the elections and the election of certain officials; that it had become more or less a vote getting machine to elect certain persons to public offices, rather than an organization which sought to bring about a fundamental change in the social system. That, in contradistinction to the emphasis on the election of certain candidates, the Left Wing believed that emphasis should be placed upon the industrial organization of the workers.

Q. What do you mean by that? A. The organization into unions, into industrial unions, and use of the industrial power of the workers in their struggle for a change in the social system.

Q. Any other criticism? A. There were many.

The Court: He stated his views in one way. You asked him what he meant by it. Now he has said something else. Won't you ask him what he means by what he has last said?

Mr. Ferguson: Yes indeed. Will the Stenographer please read, and I will ask the witness then what he means by that answer?

The Court: Read the question and answer and the next question of counsel as to what he means by that, and his answer to that, and another one, what he means by his second answer.

(Testimony repeated by Stenographer as requested.)

BY MR. FERGUSON.

Q. The question is what did you mean by the last answer that you made? A. It was the position of the Left Wing that, under the existing political and social

conditions in the various capitalist countries, that with the control of the newspapers, the control of the educational institutions, the control of all the means of information in the hands of the dominant class, the capitalist class, that the effort to achieve political control through election campaigns was fruitless; that the working class should rely upon the point at which its power could be organized and used directly through the industrial form of organization, and through such use of that power as would develop under the change in the social system and the social developments.

Q. What is an industrial union as you have now used the term? A. The organization of all the workers irrespective of craft into one union.

Q. Of all of what workers? A. All of the workers employed in a certain industry.

Q. The organizations of the workers of the particular industry in the industrial union of that industry? A. Yes, sir, and the combinations of those industrial unions is one union.

Q. And in what sense do you use the words "industrial action"? A. In the sense of using their power to withhold their services to achieve their own ends.

Q. By that you mean strike action? A. Yes.

BY THE COURT.

Q. To achieve what end? A. Those which they were organized to achieve.

Q. And what were those? A. The effort was to change capitalism into socialism.

BY MR. FERGUSON.

Q. Now, what did you mean by that? A. To change the present system under which the small class, proportionate to the whole population, owns and uses, for the purpose of securing profits, the machinery of production and distribution, into a society in which the ownership of the machinery of production and distribution would be in the hands of all of society.

BY THE COURT.

Q. Including the former owners?

The Court: He says all classes of society.

A. All of society.

Q. By all of society, do you mean all citizens? A. The ownership—

Q. Do you mean all citizens or don't you? A. I mean the ownership would be in whatever form of organization existed at that time representing the people who lived in a certain country or a certain territory.

Q. Does that include all the people who lived in that territory, are they to participate in the results of production? A. After socialism is established, they would all participate.

Q. But before socialism is established, when the workers take possession of the means of production? A. If they were ready to give their services to the new society in the shape of their ability to work and serve society, they would certainly participate in the result.

BY MR. FERGUSON.

Q. I would like to ask you to explain the phrase there "When the workers take possession of the means of production," as you have now used it? A. Yes. The view of the socialist, the Left Wing Socialist, was that, with the establishment of a working class State, that State would proceed to expropriate the present owners of industry and establish social ownership of industry.

BY THE COURT.

Q. You use an unusual word there, the word "expropriate." What do you understand to be the meaning of that word and what is the meaning of it as you use it? A. I understand the meaning of "expropriate" to be the taking by the state, the existing government, of certain property necessary for the whole of society, and transferring the ownership from individuals to that state or government.

BY MR. FERGUSON.

Q. Does that include any proposal for the workers as groups, or individuals, taking property, taking industries from capitalist owners? A. The only proposal is that the state or government shall take this property.

BY THE COURT.

Q. Does that mean with or without compensation to the present owners? A. It would mean without compensation.

BY MR. FERGUSON.

Q. When you make that answer to the Court, do you state that that is your idea or that that is the Socialist Program? A. I would state that that is my idea of what the Socialist Program is.

BY THE COURT.

Q. So that when the word "expropriate" is used in the Socialist Program, you, as a student of socialism, understand it to mean to take private property without compensation? A. Yes.

BY MR. FERGUSON.

Q. That leaves out one element. Does that mean for the State to take private property? A. Certainly, the State to take it; not individuals.

BY THE COURT.

Q. Does that view of yours, that theory of yours, contemplate the person from whom it was taken without compensation, and who is not himself a worker, should become a part or should have the full powers in connection with the state of voting in that new state, of voting and holding office? A. My personal view would be that during the transition period, that those who did not render services to society in the form of useful labor, would very likely be excluded from the suffrage, although that is not necessarily a condition to the existence of that transition period.

BY MR. FERGUSON.

Q. What do you mean by the transition period? A. The period of transition from the present capitalist society with the private ownership of industry to the complete social ownership of that industry.

BY THE COURT.

Q. You say that that is your view. Isn't that the view that is exploited by the Socialist Party? A. It is not the view exploited by the Socialist Party.

Q. By the Left Wing of the Socialist Party? A. The general position of the Left Wing or the Communists is, that during that transition period there would exist a dictatorship of the proletariat, with exclusion from the suffrage of those who refused to participate in the new society by rendering useful service. However, that is not necessarily a condition to the existence of the dictatorship of the proletariat, for such an authority on the subject as Lenin has stated that it is not necessary to exclude the exploiter from the suffrage in order that a dictatorship might exist..

Q. But they are excluded from the suffrage under the Soviet form of government in Russia? A. They are.

Q. And they are even excluded from the vote and the right to hold office even if they work; if, in addition to the work that they do, they have an income from any source of investment, are they not? A. Those who live upon the services of other workers are excluded, I understand, in Russia.

Q. Even if they work themselves; if a man works, and also attempts to employ labor, and profits out of the employment of that labor, he is excluded from the suffrage in Russia and excluded from the right to hold office under the Russian constitution? A. If he employs others to make profit out of their labor, which the Soviet government is trying to abolish, he is excluded from the suffrage.

BY MR. FERGUSON.

Q. Now, the fact that that is so in Russia, does that enter into the meaning of dictatorship of the proletariat, as you have used that phrase? A. As I explained before, that is not a necessary condition to the existence of a dictatorship of the proletariat.

Q. If the term were used in England, would it include any proposition as to the suffrage, simply by being called a dictatorship of the proletariat? A. It might or

might not; it is a matter of the conditions which the proletarian state has to face at any particular moment.

Q. What do you mean by using that phrase, "dictatorship of the proletariat"? A. I mean the domination and control of the government by the working class as it is now dominated and controlled by the capitalist class.

BY THE COURT.

Q. You say domination and control of the government. What government? If the dictatorship of the proletariat is in control of the government, are they controlling an existing government or a new government? A. It is my view that the working class will establish a government in a form that will be suitable to the exercise of the working class power; that is, the form of government will very likely be the Soviet form of government.

BY MR. FERGUSON.

Q. What is meant by the word "proletarian" in the article? A. The wage workers.

Q. That is the proletarian is the synonym for wage workers? A. Yes.

BY THE COURT.

Q. Without any other qualifications? A. Yes.

BY MR. FERGUSON.

Q. Bourgeoisie? A. The capitalist class.

Q. And bourgeois? A. The capitalists.

Q. And petty bourgeoisie? A. The lower grades of shop keepers, small capitalists, ranging up with the professional classes.

Q. Imperialism or imperialist capitalism? A. Imperialism is that stage of the development of capitalism when the state becomes the agent of the capitalist class, in seeking avenues of investment, avenues of exploitation, raw materials and in any other form of capitalist action. It is that period of capitalism when, through the development of the capitalist system, the perfection of the machinery of production, the surplus in a country

has taken on a certain character, that of the exportation of steel or iron, and making the requirement to secure markets for the use of this material, for the disposal of this material. In this effort to secure markets for the sale of these materials unexploited territories are sought and the governments become the agents of the capitalists in securing concessions, securing opportunities for investment, which, in turn, create the market for the sale of these products.

Q. Will you explain that statement, at what stage such a development occurs? A. The development of capitalism itself brings about the perfection of the machinery of production; the drawing of the workers from agricultural pursuits into industry, and tending toward the production of a certain character of commodity, and that is iron and steel goods.

Q. You mean machinery? A. Machinery also, yes.

Q. Railroads? A. The material for railroads.

Q. Is that a stage in which the surplus cannot be invested in the whole country? A. Yes, the tendency of capitalist production is that with the creation of greater and greater surplus, the returns of capital invested in home industry become less, and necessarily the capitalists seek other avenues of investment where the returns will be greater. They seek the unexploited territory. They seek the countries which have not been developed, such as Mexico or China, or part of South America, and invest—seek concessions there and invest their capital for larger and quicker returns, and these investments take the form of the development of that territory through the building of railroads, which create the markets for the sale of the products of the home country.

Q. What is the essential element that makes this process imperialistic, as you use the term? A. The intervention of the government or the state as the agency of the capitalist class to secure these concessions and to protect their investment.

Q. Can you make that more specific? A. Well, we have had as an illustration in our relations with Mexico, where millions of American capital are invested, and where we have been in constant conflict with the various Mexican governments over the protection of these in-

vestments. We find at the beginning of the war in 1914, that there had developed during the preceding decades the imperialist policy in all the great capitalist nations, notably in England and in Germany. The struggle for concessions, the struggle for what we now might call "mandatories," or colonies, had been going on for a long term of years. We found repeatedly that the Governments came in conflict with each other, as for instance, France and Germany over Morocco. The questions at stake were questions of which country should have the right to exploit this unexploited, undeveloped territory. These conflicts in which the governments fought the battles, through diplomacy, of the capitalist class, reflected the imperialistic process, the development of imperialism, the securing of these concessions for the benefit of the home capitalist. It is out of this process that The War developed. It is out of this process that other wars will develop in the future, from the standpoint of socialist analysis.

Q. Now, then, do you state the essential characteristic of imperialist capitalism is a use of government power—Military, naval power, and diplomacy, in connection with the expansion of capitalist investment? A. Yes.

Q. And the term "class struggle" is used. Will you explain that? A. Yes, sir, it was the view of the Socialists and Communists that the facts of the industrial situation as it existed in all capitalist countries divided the people of these countries into classes with separate and distinct industrial interests. On the one side there are those who own and control the industries and natural resources of the country, and exploit these for the purpose of making profits for themselves. On the other side are those who are obliged to sell their ability to work, their labor power, to the owners of industry. The interest of the owners of industry is to secure through their ownership as large profits as are possible. The interest of the wage workers is to secure as large wages and as good working conditions as possible. This creates a conflict between the two classes which we designate as the class struggle.

Q. And by "revolutionary class struggle," what

meaning has that, if any? A. The class struggle carried on for the purpose of bringing about a fundamental change in the social organization; not a struggle merely for better wages and working conditions, but to change the relation between the wage worker and the capitalist, and abolish the capitalist ownership of industry.

*Extracts from Cross-Examination of RUTHENBERG  
by Assistant District Attorney ALEXANDER I.  
RORKE and Judge BARTOW S. WEEKS.*

Q. You told us something about the First International yesterday, is that right? A. Yes.

Q. Now, did the First International have any Manifesto? A. It did.

Q. That was in 1864, you said? A. The Manifesto was written in 1847 and it is generally known as the Manifesto of 1847. The International was organized in 1864.

Q. You spoke about the Second International, was that the Basle Conference? A. No, it had repeated conferences every three years during the period it existed.

Q. Now, I think that you told us that the Second International broke to pieces, because it did not carry out the Basle Resolution? A. That and its general attitude in regard to the tactics of the Revolutionary Movement.

Q. Those are generalizations. What I am trying to get you down to is just the specific acts. What was there in the Basle Resolution that the Second International failed to carry out that caused its break-up? A. The declaration that in case an imperialist war broke out, the Socialist Parties of the various countries should act against that war. In place of so doing, the Socialist Parties betrayed their trust and supported the governments in the war.

Q. What we are interested in is the manner in which the Socialist Parties of the various countries were to act against the war. What was the act against the war that the Socialists failed to carry out when war was declared? A. An action against war might take various

forms. It might begin with demonstrations. It might develop and have—

Q. Wait a minute. Demonstration. What demonstration? A. I understand there were demonstrations held at the beginning of the war in both Berlin and Paris by the Socialists; but after the declaration of war they did not continue their agitations, but supported the governments, at least the officials of the party, and the criticism is directed to the official control of the Party and not to the membership.

Q. I will ask you again to answer my question. What kind of demonstrations did they have? A. They held great mass meetings in which there were speeches in opposition to the war.

Q. What other acts— A. Well, as an example—

Q. Just a moment until I finish the question, please. What other acts did the Second International fail to take, in order to—

The Court: What acts were not taken by the Socialists that he understands were required by the Second International agreement?

Mr. Rorke: Go ahead and answer the question.

A. I would say that such action was required by the Basle resolution as that taken by the British Council of Action, when Great Britain threatened to attack Soviet Russia in the case—at the time of the Soviet Russia advance in Poland.

The Court: What action?

The Witness: The Council of Action threatened a general strike if England declared war on Soviet Russia. Such action, I believe, was required by the Basle resolution against any government that entered an imperialist war.

BY THE COURT.

Q. Let me see if I understand you. You mean that compliance with the Basle resolution would require a declaration of a general strike in the United States after the declaration of war by the United States. A. If there

was an organization of sufficient strength and power to call a general strike, yes.

Q. Was there anything in the Basle resolution that made the declaration of the action of the Socialists in any country dependent upon their number or their power? A. I think that any such action would be dependent upon the power to carry out such action. For twenty people to call a general strike would be foolhardy, but if they had the support of the masses and could effectively bring about a general strike, it would be their duty to call such a strike.

BY MR. RORKE.

Q. What other acts do you say that the Second International failed to perform in order to prevent the war? A. That would be about my idea of what the resolution required.

Q. The Basle resolution spoke about the desirability of civil war in the event that the nations went to war, didn't it? A. I do not think those are the words of the Basle resolution. It states that the imperialist war should be turned into civil war.

Q. Should be turned into a what? A. Into a civil war.

Q. You mean by that that if the governments go to war, one with another, that the proletariat should take advantage of the situation, and change it into a civil war in the country, so that the proletariat might succeed in conquering the government? A. My view of that statement is that if it required any action on the part of the organized workers in opposition to the war, to the extent of overthrowing the existing government and establishing a working class government in its place, in order to stop the war—

Q. And is what I stated one of the acts—

The Court: And if necessary to accomplish that, by a civil revolution?

The Witness: If the conditions were such that the proletarian strength and the developments of the situation in any particular country made that possible, as it happened in Russia through the breakdown of the existing govern-

ment, then the Basle resolution required such action.

Q. If they are strong enough to do it, you believe the Basle resolution requires them to do it, is that it?

A. The Basle resolution requires the working class to use all its power to end the capitalist war, the imperialist war, yes.

Q. As part of its power, if it was strong enough to bring on a civil war, to conquer the government? A. If it was necessary, to overthrow the existing government and set up a working class state in its place.

Q. Did you believe it was necessary to overthrow the existing government during the late war? A. Do I believe?

Q. Did you believe it was necessary to overthrow the existing government by those means? A. I do not believe that the overthrow of any government can be brought about by anyone saying or planning that it should be done at a certain time. I believe that all capitalist government will be overthrown through the development of the social and industrial condition in each country, which will bring the breakdown of the existing system, and with it the government, and that at such time a working class state will replace the government.

Q. As I understand your program and manifesto, you state that there is a transition period between what you call the present capitalistic state and the proletarian state, is that right? A. No, that is not right.

Q. There is no transition period between the capitalistic state and the communist state? A. Certainly not. The transition is between capitalism and communism; between the social systems; not between the organization of those states.

Q. Is the present state here a capitalistic state? A. Yes, in my view.

Q. What is that? A. That is my view.

Q. And it is desirable to change the present capitalistic state into a socialistic state? A. A proletarian state, yes, that is my view.

Q. Proletarian. Between the time of changing from the present capitalistic government to the Socialist government there is a transition period? A. Certainly not.

There is no period between the time of changing, one succeeds the other.

Q. Immediately?

BY THE COURT.

Q. Is there a transition period from capitalism into socialism? A. The transition period between capitalism and communism is the following: When the proletarian state is established it cannot at once establish communism. The transition from capitalist production to communist production may extend over the period of a decade, a generation, over twenty-five years, perhaps. I am unable to say, and no one else is able to say. The transition period is the period in which the proletarian state transfers the means of production from the capitalist class to society as a whole, and until the time when communism is established in full.

Q. In other words, it is not out of the proposition that there is an existing state? A. Yes.

Q. That state must be supplanted by a proletarian state? A. Yes.

Q. Now, a proletarian state involves something in the nature of a form of government? A. Yes.

Q. How is the change made from the existing state to the proletarian? How does it propose that the change should be made from the existing state to the proletarian state? A. My view of that is the following.

Q. I am not particularly asking your own view. I am asking you how it is expressed in this Manifesto. A. My view is the general Communist view, which I can only state in my own words, that capitalist production in its development brings about its own decay, its own decline, its own breakdown; that capitalist production inevitably through its own conditions of existence produces such a situation as the world war; that a world war, an imperialist war, brings about the breakdown of capitalist production. It also brings about the increase in prices, the increase of the cost of commodities, and thus intensifies the struggle between the workers, who must gain the necessities to live, and the owning class. I might illustrate it: As a result of the war, prices have gone up, double, and we have had a large number of

strikes on the part of the workers trying to catch up with the cost of living. Such a strike, for instance, was the outlaw railroad strike.

BY MR. RORKE.

Q. How do you propose that the workers shall capture the power of the state?

Mr. Ferguson: Just a minute. Do you want to know how he proposes?

Mr. Rorke: Yes.

A. I believe that the workers will capture the power of the state in the following process: That in the development of the capitalist system, its own contradictions bring about a situation in which the machinery of production of capitalism breaks down. For instance, one of those contradictions is the fact that, under the capitalist system, a surplus of commodities is produced which cannot be consumed in the home market. This surplus usually takes the form of machine products, products of iron and steel. This forces the capitalists of every capitalist country to seek sources in which they can dispose of these products, — colonies, protectorates, mandates, unexploited territory, — and develops what is called imperialism. Imperialism brings the great capitalist classes in conflict with each other. This conflict, at the beginning, takes the form of a diplomatic controversy, the effort to settle their problems through diplomacy, and ends in war. War brings about the disintegration of the capitalist machinery of production, as has been the case in Europe. It also brings about inflation, the increase of prices, and a resulting situation in which the working class is driven to more bitter and antagonistic struggle against the capitalist class. In this country we saw that illustrated in the various strikes, like that of the coal miners, which, last year, brought a stoppage of industry in certain places. The strike of the outlaw railroad workers, which brought about disintegration of railroad service and brought about a situation in which the industries could not function effectively. This process going on ultimately brings about a condition in which the workers are compelled to strike more frequently, more often. In the process the government

begins to act as the agent of the capitalist class for the suppression of the efforts of the workers to secure better conditions for themselves, as, for instance, in the coal miners strike of last year, the government used the injunction, it used federal troops, it tied up the treasury of the unions. This directs the attention of the workers against the capitalist state, the machinery of the existing government, as the agency of the capitalist class, and their struggles begin to develop against the government. At the present moment the English strike of the coal miners is an example of that development. I believe that in this process there may come a point where, as may happen in England, the coal miners go on strike, the railroad men go on strike, the dock workers go on strike, the transport workers go on strike, the capitalist government is no longer able to function, and in such a crisis, in self-defense, because of the necessity of carrying on production, the working class will establish its workers' councils, which become the government and function as the government in order that production may be established on a new basis, carried on for the benefit of the people.

Q. Is there any more? A. That is the statement.

Q. Now, we have got the government, and we have got a lot of trouble with the government, and the workers are going to take the government, is that right?

The Court: No; he has not said that.

Q. They are going to establish their Soviets and carry on the government?

The Court: He did not say carry on the government.

Mr. Rorke: Let us have it read, the last portion of the defendant's answer read.

BY THE COURT.

Q. Did you say carry on the government? A. The workers' councils are established which begin to function as a government.

Q. Then there would be two governments, would there not, the workers' council functioning as a government and the other government would still be there? A. The other government will be at least partially broken

down in the process of the development of these conditions, the disintegration of industry will make it impossible for it to function effectively.

Q. Then you will have two governments? A. For a period there may be, as there were in Russia, two governments, one becoming the government and the other disintegrating and going out of existence.

BY MR. RORKE.

Q. How does the government break down if strikes are going on? A. Through its inability to function.

Q. What do you mean by its inability to function, I am speaking of the government while strikes are going on, inability to function? A. Yes; if the industries, if the railroads, if the telegraph were tied up in this country through a strike of the working class, if industry were broken down through the contradictions of capitalism, it could be very well the fact that the existing government could no longer carry on its work as a government, through not having the means of doing so.

Q. We still have our army and we have got our navy and we have our police department throughout the country; how is the government broken down because industry breaks down? A. It would be very conceivable that if such a situation existed that the larger part of the army, as was the case in Russia, would support the workers in their efforts to establish a government that could function.

Q. You mean by that, that the soldiers would desert the regular army and go over to the support of the workers, is that what you mean? A. That the Army, individuals and units would go to the support of the workers councils, yes.

BY THE COURT.

Q. If the railroad workers struck, there are other people in this country besides railroad workers. are there not? A. I presume so.

Q. Could not citizens who believed in the government take the places of the railroad workers, and with less efficiency, operate the railroads? A. The situation



that I have described presupposes that the masses at that particular time will have been placed in a position of opposition, that they will have been disgusted, that they will desire a change in the situation in the government, or otherwise such a change could not be brought about.

Q. Do you mean the masses numerically? A. Yes, I mean the masses numerically.

Q. If the masses numerically want to change the form of government, why can't they do it by the exercise of their vote? A. In the first place, I think it has been figured out that one forty-fourth of the people of the United States, of the citizens of the United States, can block any change in the form of government, that is, through the arrangement of the method of making amendment to the Constitution, the fact that three-quarters of all the states are required. The various checks and counterbalances which were inserted in the Constitution in order to protect the existing form of government, the government of the capitalist, this method is a long, tedious process, and my explanation presupposes the existence of a crisis, when it is a matter of life and death, a matter of getting food, getting clothing, getting homes, having society function, for the people to act at once, and in such a situation they would not wait for two or four years to roll around in order to wait for the election, or six or eight or ten years, when the necessity to secure food, clothing and shelter made it necessary for them to act at once.

BY MR. RORKE.

Q. But the men going on strike on the railroad cuts down the possibility of transporting the food, doesn't it? A. The new government would have as its—

Q. Please answer my question. I will come to the new government later on? A. It would.

Q. When the workers go out on strike, the railroad workers, that paralyzes the railroads and prevents the transportation of food unless volunteers take their places? A. That is the very point of my illustration that the capitalist system brings about the situation.

Mr. Rorke: I object.

The Court: Let him answer.

The Witness: The capitalist system brings about this situation where workers are compelled to strike in order to secure enough to live on, and this paralyzes industry, and this will compel the workers to take steps to change the system in order to eliminate this paralysis of industry, this breakdown.

Q. What steps are the workers going to take at that point to change the system? They are out now. They have gone out on strike. What steps are the workers going to take, to take the railroad and change the system? A. I have stated that in such a crisis there would very likely be set up workers councils which would assume the state power and begin to function as a government and would take control of the means of production and distribution and operate them for the good of society.

Q. Do you mean these workers, proletarian workers, are going to take these railroads and other sources of distribution and production at that point? A. I mean that the working class state will take these means of distribution and production, and operate them.

Q. Do you say that at that point a working class state has been established? A. I stated that in such a crisis workers' councils would be established which would begin to function as a government.

Q. Tell us what you mean by function as a government? A. Acting as a government, being the government.

Q. What about the other government with its army and its navy and police, when the workers' government tries to take these railroads and other sources of production and distribution, what happens then? A. I repeat again that in order that such a crisis might exist, the process of disintegration of capitalism would reach such a point that large parts of the army and the navy and the police would have deserted the capitalist state, and would support the working class state.

BY THE COURT.

Q. Even then, assuming that the army and the navy

and all these people, some of them have deserted, the round houses and the locomotives and the stations and the rails and ties that make up the tracks were bought and paid for by somebody and belonged to somebody. Now, who is going to undertake to operate them and restore something like equal food conditions? A. The new government would for the good of society expropriate the former owners and make these means of production and distribution the property of the state.

Q. That is they would, by force; you do not expect that the men who own these railroads are going to say, "We are pleased to hand these over to you, we will make you a present of them," do you? A. I am not prophet enough to say what they would do. They might resist or they might not. They very likely would. I do not know definitely what they are going to do about it.

Q. Have you any belief that these strikers could obtain possession and control of factories, plants, machinery, railroads, telegraphs, telephones? A. I have not stated—

Q. Without compensation to the present owners? A. I have not stated that the strikers would obtain possession. I have stated that the new government would through whatever form of action or legislation was necessary.

Q. That any government organized by these men, who started the strikes, could get possession of such property, so long as another government was in existence that recognized property rights? A. I have also presupposed that the conditions existing would bring about the disintegration of the former government, so that it could not longer function.

Q. That the other government would be absolutely disintegrated and destroyed? A. It would be unable to act as a government.

Q. Would that be a destruction of the government? A. You might call it that, if it disintegrates, it ceases to exist.

Q. And until it had disintegrated and ceased to exist, there would be some government that recognized property rights, would there not? A. There might be the remnants of such a government.

Q. As long as there were the remnants of such a government, recognizing property rights, have you any reason to believe that owners of property would voluntarily surrender? A. I cannot give you a blue print of exactly what is going to happen at that particular moment. I can only state to you the general forces which are at work in society today, the things that I see at the present moment developing, and which I explain in harmony with the theory of Communism or Revolutionary Socialism.

Q. Why do you refer to that as a blue print? A. Certainly, to ask me at this time to describe in detail every act and every circumstance that may accompany an event five years, ten years, twenty years, hence, when new social conditions, new situations have developed, would be to ask me to do the impossible thing of today giving you a blue print of what will happen twenty years from now. I can only state what I think are the forces in society, the things which are happening today, which are developing in a certain direction, which I think will bring a result.

Q. Why do you call it a blue print, a blue print is a solar reproduction of something that has already been produced? A. I used the phrase figuratively, of course.

BY MR. RORKE.

Q. You and I have gotten to that point where the strike had begun, and as you said large forces of the army and navy of the country had deserted to the strikers. Now we have got the balance of the army and the navy and the police department supporting the existing form of government. How do the workers with the army and the navy that has deserted to them conquer and destroy the state? A. They would set up the workers council, declare it to be the government and act as a government.

Q. What is the loyal army and navy and police force going to do at that time? A. I am unable to state that certainly.

Q. Haven't you any idea of what would happen? A. But if I should judge by historical events, I would state

that there might be a struggle between the two at that particular point.

Q. There might be a struggle? A. Yes, there very likely would be.

Q. Between the loyal army and navy and police force and the proletariat with the deserters on the other side? A. I would say so from my reading of history.

Q. What kind of struggle do you mean, when you say a struggle? A. I mean there would be opposition.

Q. What kind of opposition, these twelve men would like to know? A. You ask me to state that there will be such. I am simply stating that there would probably be a struggle which would take the form of open armed conflict between the two groups.

BY THE COURT.

Q. What would become of the President of the United States, who has taken an oath of office to carry on this government under the Constitution? What would become of the Vice President of the United States, and the members of congress, the governors of the various states and the members of state legislatures. The mayors of cities and the common councils of cities, who, all of them, have taken an oath to enforce the laws of the country? What would become of the judges who have taken an oath to see that the laws of the country were carried out until those laws were changed? A. I am unable to say what would become of them. I would state that the new government would set up new organs for the control and effective administration of society.

BY MR. RORKE.

Q. While we have still got that portion of our loyal army and navy and police department, what does the so-called new government of the workers and deserters from the loyal forces do with respect to the private property of the individual? A. I am not thinking that the new government would take any action until it was formally established as the government; then, as I have stated, it would proceed to expropriate the present private owners of industry and means of distribution which are required for society as a whole.

Q. Now, suppose that this armed open conflict that you mentioned between the loyal forces of the government on the one hand and the proletarian army with its deserters on the other occupies a period of years, is that the transition period that you have in mind? A. It is not.

Q. What is to become of the private property during that period of struggle that is owned by the loyal citizens of the government here? A. My conception of such a situation would be, as I would judge from the experience of the past and the reading of history, that it would not be long before one or the other of the existing organizations which were trying to function as a government would be the power that would function.

EXTRACT FROM TESTIMONY OF

I. E. FERGUSON

ISAAC E. FERGUSON, *one of the defendants herein, called as a witness in behalf of the defendants, having been first duly affirmed, testified as follows:*

DIRECT EXAMINATION BY MR. NELLES.

Q. When were you born, Mr. Ferguson? A. 1888.

Q. That makes you 32 years old? A. 32, yes.

Q. Where? A. Winnipeg, Canada.

Q. What was the citizenship of your parents at that time? A. My father was an American citizen at the time.

Q. How long did you stay in Winnipeg? A. I think I was five years old when we came back to the United States.

Q. And then where did you live principally in the United States? A. For about a year and a half at Seattle, and thereafter at Chicago; at Chicago until the end of 1912; then for four years on a farm on the Shoshone Irrigation Project in Wyoming, and one year in the town of Powell, Wyoming.

The Court: What town?

The Witness: Powell, Wyoming. That is the end of 1916. Thereafter in Chicago again until the present time.

BY MR. NELLES.

Q. What education did you have? A. I went to the public schools of Chicago, graduating from the grammar school, from the McKinley High School; thereafter went to the University of Chicago and graduated from the Academic Department; thereafter went to the University of Chicago Law School, and graduated from the University of Chicago Law School.

Q. What degrees did you receive? A. My academic degree as Bachelor of Philosophy. My law degree is juris doctor.

Q. Did you specialize in any particular subjects in the University? A. My academic work was specialized in economics and sociology and history, to a large extent; then, of course, the law.

The detailed review of the evidence is omitted because the references would not be clear without quotation of more of the record than space allows.

*Extracts from closing argument to the Jury by*  
I. E. FERGUSON.

There is another matter. We have appeared in this case for ourselves. We have not thought it proper to call in a lawyer of long experience in criminal practice, for one principal reason, and that is because the things that we believe, as Communists, we believe intensely. They are the vital things of our lives. It seemed to us if we were to be tried on account of our beliefs or on account of anything done in connection with our ideas about what should be the social system of this country, what should be the government, that we did not want the intrusion of anybody who might try to make what we say mean something a little different. We prefer to come before you directly, to speak frankly about the things we believe, and to let you judge us on that basis. I am sure, gentlemen of the jury, that none of you can have any doubt but that we have told you fully and frankly all that we have had to do with this transaction. We have answered fully and directly every question as to the significance of the things stated in all of these documents. There is lots of literature here. You have got the whole literature of Communism in this case. Some of it is a long way from the issues, but it is all here.

Isn't it fair for me to say that there has not been a single fact introduced in this case that we have not stated; that the prosecution has proved nothing; we have given you all the information of everything we had to

do about this? We knew in Springfield that we were under indictment. Mr. Rorke reminded you when I was a witness that I am a lawyer. Now, I knew if I made a statement there about the facts relating to this case that it could be used against me there and subsequently. Was there any hesitation on our part at Springfield to tell the facts? Mr. Ruthenberg answered the question put there. We knew they could be used against us. We could have remained silent; we could have remained silent all through this proceeding, beginning with the extradition. We could have refused to answer any question. That was our privilege. We could have remained silent here. We preferred, on the contrary, to give you all that we had of information upon this subject. That has been our attitude throughout this proceeding, and that is something upon which you can have no doubt.

On the whole question of our connection with the paper, with the publication, I make no argument. I think you will apply what instructions the Court gives on that, just as well as I could by making an argument about it. I believe that the real question of this case arises on the Manifesto itself. I don't believe the jury can be convinced that the Manifesto published in The Revolutionary Age of July 5th is an article of criminal anarchy. The only effort of the State to make a case of criminal anarchy out of this document was by bringing this man Lovatt three thousand miles to tell you about a strike which happened in Winnipeg a year and a half ago.

Now, let us see what that all came to. After this man had spent three days traveling to come here, and the case had been adjourned to give him a chance to testify, the one witness relied upon to prove that there is something in this Manifesto which is an advocacy of force, violence or unlawful means to overthrow organized government—that is the State's case. The testimony of this witness is the State's case. They picked that out as the kernel of that article. They go to this question of strikes, and they bring this witness here to show you what this might mean. Now, that is their case. Let us see what is amounts to. There is a whole lot in the Manifesto about strikes. There is mention of mass strikes, political strikes, general strikes. Quite a discussion of

working class action by means of strikes, working class action either for the direct immediate object of better conditions of life, or working class action to affect the conditions of the whole social organization, to affect the political action. In connection with this discussion of strikes, there is a mention made of the Winnipeg strike. The language was read here yesterday, but I will repeat it. I will go back a little so we get the connection. "Imperialism is dominant in the United States, which is now a world power." Well, the Manifesto has already defined imperialism. Imperialism is the policy which develops by reason of the fact of concentration of industry in this country, the monopoly control becomes so widespread that there is no longer room for new investment, the beginning of new enterprises, as one industry after another comes under monopoly control, as it is organized on a nation-wide basis, then production is limited. It is held down to what can be sold at the highest rate of profit. There is no incentive to pile up any more capital there, and go on producing things, because they will be a drug on the market. You cannot sell them. So when you get to the monopoly point, production is held just at a given mark, sometimes a little more and sometimes a little less, but the idea of monopoly is to control production, to limit production. Now, as one industry becomes monopolized, we have reached the point at which you cannot invest any more money along that line. You can think of a lot of business in this country where nobody can start up any more. The field is controlled and dominated on a monopoly basis, and no chance for anybody to start up in a little way and become the head of a great, new corporation in these fields. Then what happens? The income piles up. There is a surplus in this industry year by year, a tremendous surplus in some of these industries in this country. It cannot be invested here any more. It can be invested along other lines, and pretty soon the other lines are glutted, and then what happens? The search for new investment fields. Of course, there is export. Goods can be produced beyond what is needed in this country if they can be sold in other countries, but that, too, reaches its limit, because the other fellows are doing the same thing, and pretty

soon there is no market to interchange commodities as between countries like the United States, England, France and Germany, the industrial nations, and capital looks to the new fields, to the undeveloped fields; brings new people under the system, civilizes them, brings them within the capitalist industrial system. That is called civilizing them; puts them to work as wage workers. Maybe it does civilize them. Maybe it is a necessary part of the development of humanity. Sometimes it looks atrocious, but it is done to the people in the backward countries. Wherever this economic point is reached, then industry goes to seek new fields. Railroads are built where railroads were never dreamed of before; in Egypt or in Africa, in Asia; in China particularly, which is a backward country; in South America, which is a special field of American imperialism. That is, the surplus which accumulates in this country because the earnings cannot be re-invested, goes off to other countries and it goes into business there. It sets up new industries there, like our packers who have big plants all over South America, especially Argentine. They set up their establishments there and quit growing here; come to the point here where they simply hold production to the point of highest return. Now, in that process, going to these remote places, they come into competition with capitalists of other countries who are having the same experience, and it is out of that process, so the Manifesto states, and it is rather obviously true, that all of the modern wars have occurred. Diplomatic negotiations contrive to divide up these fields of exploitation, but the time comes when diplomacy breaks down, and there is war.

It is said here, and said correctly, I believe, that the World War broke out in 1914 because the competition had become tense between industrial Germany and industrial Britain; that they could not longer negotiate. Germany was approaching too close to India with the Bagdad Railway. The situation was getting tense. Imperialistic countries, one country trying to keep the other out of its own special fields of exploitation, that is the conflict which accounts for modern wars.

Now, it is said here that the United States has reached this stage, that we have come to the time when

our imperialism has gotten away beyond the bounds of investment opportunities at home, and it is spreading out. It is going to all parts of the world. It is spending its money and sending its machinery to China, to Mexico, to South America, to all the corners of the world. We are now a full-fledged imperialist nation, one of the strongest and most powerful imperialist nations of the world. "Imperialist" is an economic word. It refers to the kind of capitalism, but it also has a political significance because with this policy of external investment goes the big army and the big navy. The flag follows the dollar. The policy of imperialism is to use the might of the government to back up these investments in all parts of the world. That is precisely what is meant by imperialism, the government policy of putting itself behind the adventures of capitalism in the far corners of the world. Now, it is said here that "Imperialism is dominant in the United States, which is now a world power. It is developing a centralized autocratic federal government." That is one thing that comes with such a policy, that you must have a strong central government, and it is said here that along with this economic development the government of the United States is becoming a strong centralized government, "acquiring financial and military resources for aggression and wars of conquest."

A government that backs up this policy must be a strong government and have big armies and big navies. That is said here to be the development of the United States. We all know that. We know how our army is growing. We know how our navy is growing. We know the policy in that respect is entirely different from what it was even two decades ago. There is coming this change, with the economic development, the political development, a powerful centralized autocratic government which makes it its business to get behind the adventures of our capitalists in all parts of the world.

"War has aggrandized American capitalism instead of weakening it as in Europe." Yes, we had the run of 1914, 1915 and 1916. We had the run of the market. Our capitalism got the benefit of selling to warring countries, and not paying for war itself. It ran ahead. The war built up capitalism in the United States, but left Europe

in a practically bankrupt condition. We are at a time of great advantage in our imperialism. "But world events will play upon and influence conditions in this country. Dynamically the sweep of revolutionary proletarian ideas"—that is one of the things that will affect conditions in this country—"the sweep of revolutionary proletarian ideas," that is, the sweep of the ideas of the world-wide struggle of the workers of the world to change the system, those ideas will have their effect in this country. "Materially the coming constriction of world markets upon the resumption of competition." That is another thing that will affect conditions here, that the world markets will not be so wide open to us as soon as France, England, Germany and other European countries get on their feet again and start sending their stuff into the markets, and we won't have quite so easy a time of it with our trade.

"Now, almighty and supreme capitalism in the United States must meet the crises in the days to come. These conditions modify our immediate task, but do not alter its general character. This is not the moment of revolution, but it is the moment of revolutionary struggle."

That is, at a time like this, with conditions in this country generally of prosperity, or as we say, easy, no tension, a powerful government, this is no time of revolution in this country, but it is a time when the working class must organize itself toward a revolutionary change of the social system along with the workers of all the world, because this is a world-wide proposition, a change of the whole economic basis of present-day society.

"American capitalism is developing a brutal campaign of terrorism against the militant proletariat." And I said what that means, from the witness stand, that our capitalism, being strong, now means to crush the labor movement, break the unions, shut up all political expression which is the expression of the working class, put Ruthenberg in jail, put myself in jail, because we speak the politics of the working class. That is what this means, that is the campaign of terrorism, but we are not terrorized.

"American capitalism is utterly incompetent on the problems of reconstruction that press down upon society." They cannot take care of the needs of the people of this country. "Its reconstruction program is simply to develop its power for aggression, to aggrandize itself in the markets of the world."

That is the only reconstruction policy which the government has now, to build up a strong central government, to develop its imperialism. Otherwise it cannot solve the problems of this country. That is why we hear so much about unrest here. Oh, the Prosecutor will tell you it is agitators that make the unrest. That is an old story. That has been heard all through history, but I think a little horse sense will convince you that unrest is not created by talk of agitators. No. It is created by life conditions. When you have a condition in this country where the government is not meeting the problems of the people, but is meeting the problems of the capitalists who are trying to dominate the world with our capitalism; when you have no reconstruction policy at home, then you have unrest. That is why there is unrest to-day in spite of all the Prosecutor may tell you about our being responsible for it by our little papers or our few speeches. He will tell you those things, but just think them over and think what sense there is to that sort of talk.

"These conditions of imperialism and of multiplied aggression will necessarily produce proletarian action against capitalism." Out of these conditions must arise some sort of protest by the working class, because the whole thing crushes down upon the working class, the wage workers, the toilers, called here the proletariat, called again the proletariat in the basic industries, the steel workers, the miners, the workers in the mills and factories throughout the country. They are the ones who in the last analysis bear the life cost of this thing. It is out of their sweat and blood that this thing comes, the profit that piles up and sends industries to all parts of the world. It means that somebody at home is not getting enough to eat; somebody is not getting the results of the labor of this country. And who is not? Of course, it is the unskilled or semi-skilled worker. Now-

days that means practically the working class, because in the modern technique of industry, as you gentlemen well know, craftsmanship in the old sense is gone. A man does a part of the job, he is an appendage to a machine. He does a sort of monotonous job. There are a few skilled trades left, but think in the big industries of this country how much skilled work is there? A very small percentage of all the labor of the country. When the word "unskilled" is used here it means simply the semi-skilled workers, the great mass of laborers in the industries of the country. That is what precedes this statement that imperialism is developing here, and the working class will have to do something about it. And here is another statement of what is going on. Strikes are developing which verge on revolutionary action, and in which the suggestion of proletarian dictatorship is apparent, the striker—workers trying to usurp functions of municipal government as in Seattle and Winnipeg. The mass struggle of the proletariat is coming into being."

Out of these conditions, out of these conditions of industry and life in this country, strikes are developing. Now, that is not our fault, is it? We did not call those strikes, they are developing. People do not go on strike just for the fun of it; because it is an obvious thing that the man who gets the worst of it is the striker. He does not get his salary. He is probably a very poor man and needs his weekly wages, and needs it for himself and needs it for his family, so when people go on strike it does not take much reflection to see that they feel they have some vital need which causes them to go on strike. Ten strikes a day in this country, about 3500 a year in the United States. That is the record of the last four or five years, published by the Government Labor Bureau statistics, 3500 strikes a year developed in this country. That is not our fault, is it? That sort of condition, somebody ought to do something about. Just, of course, to say they ought not to strike does not solve the problem. If they really need more wages to live they are going to do something about it. They will strike or do what they can. It is an awfully poor way to get results, discharge yourself for a while in the hope you will get a little more, and send your children to school a little

longer afterwards, but that is the only weapon the worker has got. His only fighting weapon is to quit work because maybe the other fellow who wants profit out of his work, maybe he would rather pay him a little more and try to make up his profit in some other way. That is the worker's weapon, the strike, and strikes are developing.

What is the significance of the reference to Winnipeg and Seattle? That there is something new, a new germ in those strikes. I am going to show here there is nothing different about those strikes than any other strike, only there is a new idea, the idea of a workers' organization which does not simply stop with the passive, negative proposition of quitting work. Of course, they could not do that where too many workers are out at the same time and the social processes are broken up; it is obvious that the strikers themselves could not keep alive. Somebody has to carry on the work of society, to carry on the work of the community. The significant thing about those strikes, and that is the reference here, is that the workers had some sort of organization and tried to keep things going. There was something constructive there, and what is that? A suggestion of a new organization, a suggestion of a working class organizing the work of society and directing it. The suggestion is of a "proletarian dictatorship." It is a germ of the idea that some day the workers may organize the whole industry of the country for the welfare of all the people of the country and run it under a form of organization which leaves out the exploiting principle, a form of organization controlled by the working class, by people who are willing to work and let everybody else work, but do not want to protect a system of society where a few people who do nothing, who have no relation to industry at all, who have "title," and just that, get the cream of all the work of all the people of the country. That is not a vicious ideal, is it? It is not an ignoble idea?

The prosecution here is going to show you it does not make any difference, if we want to overthrow organized government by unlawful means, it is a crime, no matter what we are after. Well, we will see whether this manifesto has any unlawful means or force or violence



according to this Criminal Anarchy Law. You have the quotation before you, and let us see what the witness Lovatt gave us to illustrate that quotation.

The analysis of the facts of the Winnipeg strike, as presented by this witness, is omitted. The speech is resumed after this evidence has been summarized.

What difference about this strike from the common run of strikes? Just one thing. That is the point of the reference in the manifesto, that in a situation where strikers disrupt the social processes, disorganize the life of a community, like a city of 200,000 people, that they cannot stop there. When strikes take on that character, then a new element enters in. The strikers are forced to organize to take care of the community services. That is the point of this strike. Strikers were forced by the life needs of the people of that city to organize constructively to take care of the community services, and that is a hopeful element. If strikers all over the country, all over the United States, if men are being forced into strikes to keep up with the standard of living, that the process shall not be purely negative, purely disruptive. At the same time, the very process of striking will develop organization on the part of the workers, organization which now can take care of the community services to some extent in spite of the strike, and eventually can furnish that nucleus for a new social organization where there will be no room for strikes at all. That is the hopeful thing about what the striker workers did in Winnipeg and in Seattle, as referred to in the manifesto, and that is the whole meat and kernel of that reference, that there is something new here, something new that out of the process of the strike, out of the needs created by the strike, a workers' organization develops, which has something of a governmental character, something of the character of organizing the services of the community. That is why the manifesto makes the particular reference to these strikes, and says in such a process there is a germ of a developing new social order.

Where is the unlawful act against organized government? I am talking now of all that is said about strikes in the manifesto. Where is there anything said in the

manifesto that calls for a strike which is an unlawful act as stated in the Criminal Anarchy Law? Well, the manifesto does not refer to any strike that is going to happen. The manifesto does not say, "Let us call a strike, let us call a strike next year in New York or Texas or California, or all over the country." Nothing of the sort. It does not say, "Let us call out these workers and those workers and do this and that and make these demands." Nothing of the sort. It talks all the time about the strikes that are going on, the strikes that are forced upon the workers by their economic situation under capitalism. You have heard the strike reference. They are the historical strikes which develop out of this system of capitalist and capitalism. Where does it say that the Left Wing Socialists shall call a strike at any time by any person for any reason? No, what it says is this: These strikes are developing, they are going on, they are disrupting the life of the nation, they are creating hardships. Now, then, is it not possible to introduce into this process something constructive instead of having all this wasted power, all this negative effort to get a bare living? Is it not possible for the workers, out of their own organization, to develop an affirmative program, something new in industrial and governmental organization that will get rid of all this disturbance and hardship? That is the suggestion of the manifesto all the way through. Let the strike look to the constructive aim. Let it look to the change in the social system, a revolutionary change, a fundamental change of the social system. Let it take on a political character. Why? Because it must deal with the fundamental problems, the political problems which concern all of us. It must go so far as to lay down a basis for a whole new political organization and policy, and then we may have some relief from all of these strikes. To introduce into the strikes a new understanding, a new purpose, to make it constructive, not only negative; to make that something which leads towards a better organization of society. That is, everything that is said about strikes in the manifesto comes under the generalization that I have just stated.

It is about time that somebody came along with a proposal to do something about all these strikes. It is

not the Communists that have brought these strikes. You know that well enough. They have been going on for a long time. They inhere in the very nature of the capitalist system. They happen because that is the only way workers under capitalism can protest and can make demands for a living wage, and these strikes are happening all the time, and I say it is about time that somebody came along and made a proposal to do away with them, and that is what the Communists do, they make the proposal. They say the way to deal with such problems is not to say, "Put the lid on and clamp it down." It is one of those lids that will not stay clamped down, because the strike expresses the absolute life need of the worker, and you cannot keep life bottled down by saying that you want to do it. Mr. Gary may have his ideas about it, but Mr. Gary cannot express the life desires of the tens of millions of workers of this country. No, they have some life, some manhood in them, and it is going to express itself some way, somehow. You cannot put the lid down on these strikes. Then what is the alternative? Get down to the fundamentals. What do the strikes come out of? They come out of this relation between employer and employee which we have described here from the witness stand. They come out of the fact that the men who labor at the machines, who produce by their life blood the enormous wealth of this country, do not get enough to live on. They keep on striking, striking, striking to catch up with what? What do they ask for always? Standard of living. A living. With all of this wealth here. We say that is not the kind of social system that the people of America should be asked to live under. We say get down to the fundamentals, and the fundamental thing is the property system, as we have it now, this relation between owner and wage worker as it exists now, and that is what the Communist proposal is, that this relation be changed, that this system be changed, that the ownership be social, be an ownership by all the people, and that this relation between a very small group of owners and the mass of the nation no longer exist. At least let us get started to get rid of it. It may take a long time, but if it is going to take a long time, that is all the more reason to get a

quick start. The Communists make a proposal to deal with strikes fundamentally by getting rid of the root cause of the strikes. That is the criminality of the strike as expressed in the Left Wing Manifesto. I have dwelt on the strike proposition because that is the State's case. They brought this witness here at great length, and I suppose at expense, and put him on here to show you that that was the criminality of this doctrine. I ask you if we have not met that case.

A reasonable doubt. Gentlemen of the jury, I think there is a whole lot more than a reasonable doubt about this strike proposition in the Manifesto being an advocacy of unlawful means to overthrow organized government. Let me state in just a few words the whole proposition of the Manifesto. Get away from the peculiarities of style of the document, from the many allusions to matters of history which we could not possibly go into in a trial of this sort, and get down to the real propositions and there are just a few of them. I think they number eight, eight propositions in that Manifesto.

The first one is that it is up to the workers to take care of themselves. They cannot depend on the other classes. They cannot join together with classes which have a fundamentally antagonistic interest to that of the wage worker. That is why there is so much emphasis on the proletariat as a class. That is why they state over and over again that this must be done by the proletariat. Why? Because the whole pressure of the system finally comes on the back of the proletariat, the tens of millions of men and women who have no hold upon life except the stipend that they get from day to day or week to week as wage workers. They cannot beg out of this by negotiation with classes in society which are built upon this system. They cannot make alliances with their enemies. Halfway steps will come to nothing. They think they might get a little bit now by joining up with some others. A proposal is made to cut down the rough edges here and there, or some place. What we call reform measures. They come, and they are dissipated, and they amount to nothing. The fundamental condition remains the same. We have been having this reform legislation for half a century or more in all the countries of the world, and the

fundamental condition is just exactly the same, and we say it avails the workers nothing to join up with other groups on this and this particular proposition. We say that the workers must rely upon themselves. The proletariat must organize itself as a class, because, as a class, it has the power, and it has the distinct interest which leads to a new organization of society. That is proposition number one, that the working class must depend upon itself and cannot co-operate with the other classes toward a change of the working system.

Two: The workers must go beyond the idea of day-by-day class struggle for bare sustenance. They must work towards a reorganization of society, a basic change in the property system, a revolution, that is, a complete turning over of the social system, the ending of the capitalist system and the introduction of a new social system which we call communism.

The Court: I must interrupt you just for a moment. I am called out to the telephone.

(Short recess.)

The Court: I regret to have interrupted you, Mr. Ferguson.

Mr. Ferguson: That was perfectly all right.

The third proposition, one that appears again and again in the Manifesto, that upon this revolutionary change of society depends world peace, civilization itself; that the process of capital in this era of imperialism has become so destructive that it turns the nations against each other in such a way. Well, we have witnessed a world war. That it is a process which threatens the destruction of the very fabric of civilization. That is why this is a time of crisis. It is time that the human family did something about it, not let itself be propelled into such a slaughter again and again, because we have not sense enough to organize our economic life. Communism is a proposal to save civilization.

This change cannot be brought about along the lines carefully selected by those who have the power to keep the power. A fool proposition to ask the workers to use the weapons of their opponents, and then be expected to meet them in a duel in an even contest. No, they have to develop their own resources and powers. They have to

develop along their own lines whatever power they have, and it is very, very inadequate, and, as I said before, mostly the power to quit working, and that is not much of a power, because you cannot quit working very long without starving to death. But the system is completely organized, and it is quite sensitive, and the workers, by an organized use of their power, can have a great effect upon the industrial system, but they must immediately face the problem of social reorganization, because, as they disrupt a system as against everybody they disrupt it as against themselves. They cannot go very far along that line. These strikes cannot keep on growing as they have been growing in these big capitalist countries without somebody facing the problem of reconstruction, and we say that the workers must face that problem. The proposition is, number four, that they must develop their own resources of power, that is the emphasis in the Manifesto upon unionism and development of unionism along broader lines and more effective organization of the working class power, and a more understanding organization, more intelligence among the workers as to what they must do to save themselves, and to save society.

Number five. A statement in a little different way, it is the very process of capitalism which organizes the workers. A plain statement of fact, they must organize under capitalism to fight for a fair living. That process organizes the workers. They are collected together in great industrial centers like the one we are in now, like the Calumet in Chicago, like the steel regions around Pittsburgh; they are gathered there in great hordes, forced to organize to fight the giant corporations which hold in their palm the lives of tens of millions of workers. They are forced to organize. Capitalism does it. And here is the one further idea of Communism, that out of this organization, out of this struggle, shall come something better, a better order of society, less anarchy, because capitalism is a system of industrial anarchy, and communism is a theory of industrial order. Of course, we are under indictment as anarchists. To come down to brass tacks, isn't what I say rather more the truth of the situation, that capitalism, so far as the lives of the

millions of people which depend upon it is concerned, is a system of anarchy, the worst system of anarchy that the world has ever seen, the system which can produce wealth by so many billions that you cannot reckon it, and yet does not sustain the people who do the hardest physical labor under it, so that they have to keep on striking all the time, have to keep on fighting and begging for a living wage? Now it is this organization, which capitalism itself develops by its coercion upon the life of the masses, it is this organization of the workers which forecasts the organization basis of a new society.

The Manifesto especially dwells on that aspect of industrial unionism, that the workers thus organized along the lines of industry have a potential organization which can systematically conduct that industry under some general plan of supervision, under some governmental arrangement which makes an orderly process out of the whole national and international industrial system.

The next proposition. The working class power must take a political direction. That is another thing that is compelled by circumstances. By what power is capitalism maintained? By its political power. It controls the government. It controls the system of law. It controls every part of it. It brings us into court as criminals because we are against capitalism. Of course, it does that under the criminal law, and says that is why we are here. I think before we are through here, gentlemen of the jury, you will have figured out for yourselves that it is not criminal anarchy that we are here for. It is opposition to capitalism. It controls the government, has the power of the armies and the police at its disposal, has a strangle hold on what goes into the minds of the children in the schools; controls, because it controls the political power, and there is no way out of it, unless there is a change of that control.

The workers' struggle must be directed toward the fundamental political problems of society, the problem of wars, of the organization of industry, national and international, education, all the things that concern society as a whole. The workers' struggle must be directed in that line.

Seventh. The goal. The aim. All power to the workers. That is the slogan of the Communist Party of America, of the Communists of the whole world. That is, a political power which is distinctively a working class power under a program of social reconstruction which is revolutionary, under a program to reconstruct the fundamental property basis of society. The workers must have the complete political power. They must "conquer" the political power. That is the sense of that word as used in the Manifesto. They must not share it, but have a complete power on a new constitutional basis, a power that is complete enough to make it possible for them drastically to change the economic system along the lines indicated in the Manifesto. Particularly as to what will be done to-day and to-morrow and next year? Nobody knows that. You can lay down a line of policy, and the line is to change property relations so that this relation of means of production to the wage worker who must use those means of production or starve, that this relation will disappear. That the ownership of those things upon which the life of all the people depends, the ownership of the basic means of production, will be in all the people. That is the idea as to the property system, and that cannot be brought about unless there is a political power which has that purpose, and which has the organization and the strength to bring it about.

The eighth proposition is as to the basis of reconstruction, and I have just stated that the basis is socialization of industry, the means of production in the hands of society as a whole for the benefit of society as a whole.

All of this is what? The scheming of our minds? No, a development out of conditions of life, the things which are happening and things which are in process. What is referred to in the Manifesto all the time? Things that are happening, and on the basis of things that are happening, some deductions as to the fact as to what may happen in the future, and at the bottom of it all, what is the last fact? That is that capitalism has developed productive power beyond the ability of capitalism to take care of it. Capitalism has done a great service in the history of the human race. Capitalism converted

industry from a small home industry, handicraft industry, to a great organization, the machine industry, and it has built up this industry into splendid organizations like the Standard Oil Company, like the Steel Trust, like the Harvester Company, great organizations which have tremendous productive powers, but these productive powers, have come to a stage where they are killing people. Instead of getting benefit out of this great development of machinery and productive power, the mass of the people to-day are getting nothing out of it but misery, desolation, destruction, death. The apex of capitalism, its efflorescence is the war of 1914 to 1918. That is the brightest jewel in the crown of the capitalist system to-day. It has done its work for humanity. Its time has gone. It has put at the disposal of people all over tremendous productive powers, but it cannot use them to the benefit of those people.

Our capitalists are not evil persons. Just because a man has money, capital, he is not wicked, and he is not designing, and he is not necessarily greedy. It is the compulsion of the system. It is the relation that exists between the capitalist group and the other group, not a personal matter all along the line. It is a matter of fundamental forces. The economic development. That is why we need a revolutionary change of society. We are going to have it. It is going on all over the world to-day. It is going on. We are holding a criminal trial about it in Cook Country or in New York. That is going to have very little effect on what is going on in the world to-day. It is going on. Whether Ruthenberg and myself went to jail or not would not make the least difference. It is going on because there are these fundamental forces at work, and because there is a certain logic in the development of these forces that cannot be stopped. We are the agents of those forces and not the masters of those forces. There is no doubt in my mind at all that if I were talking to all the capitalists of the United States and asked them, "Wouldn't you rather have a condition here under which all the workers live in fine homes and had plenty to eat, and fine clothing, and their children go all together to high school and college," that they would say, "Certainly." They would have the same human im-

pulses as we have. But it so happens that their condition of carrying on as capitalists turns them against it. They fight their workers in the union. They do not think of that as having anything to do with the particular social problem.

Communists are persons who see the thing in all its perspective, and they see it from the working class angle. They see it from the angle of social progress. They are looking at the future, trying to see the way out of the system of anarchy, a system of destruction. You know these things just as well as I do. You go around New York and see the wrecks of human life with which this city is degraded, alongside of its brilliant lights and wonderful places of amusement, and palaces for homes, you see these wrecks of humanity. You do not like it any more than I do. The difference between us, if there is any difference at all, is perhaps because I have studied this thing more, perhaps Mr. Ruthenberg has studied this more. We have this consciousness. We speak about it. Having this idea, we think it is our duty to speak about it, to tell others about it to help in the process. If we are criminals, that is why we are criminals and for no other reason.

Mr. Rorke took the pains to ask Mr. Ruthenberg if his son was going to the public school in Cleveland. Why? I have gone to the public school. Yes, Mr. Rorke will perhaps tell you that we are ungrateful persons, who go to the public schools and partake of the beneficence of the now existing government, and should not want to change it, that we should merely be grateful and let it go at that. To whom do the public schools of this country belong? To the government? I do not understand the government in any such sense. My understanding has all been developed out of the schooling that I have had in the United States of America. All the traditions that I have are bound to be of this country. I know no other country. I know no other traditions, national character or of any other character. I would not say that the schools of this country belong to the government. I would say that they belong to all the people of the United States, that they are the result of the collective toil of every last person in this country to-day. I do think that

we should be grateful to the people of this country that we have been able to go to the public schools, and that our children can go to the public schools. I think it is our expression of gratitude to the people of this country for our education, that, if we have ideas about bettering the lives of the people of this country, if we have ideas which look to the future that not just a few out of a hundred or a thousand can go to the high schools and the colleges and get a thorough education, if we look to the time when all the children of all the people can have a thorough education, that that is our very best expression of gratitude for what the people of this country have made possible. ,

I do not want to be misunderstood in the least as to what I am asking of this jury. I do not ask you to say by your verdict that we are right, that unionism is right, that the Left Wing Manifesto is right. No, there is no question here of Communism. The question here is one of crime. What we do ask is that by your verdict of acquittal you shall say that whatever is the truth or falsity of these doctrines, it is not a matter for the criminal courts, it is a matter for open public discussion. It is for debate on the public platform. That is what we ask you to say, and you know here that the Communists propose in their platform to go on the public platforms and take part in the political campaigns of this nation; to debate with whoever says that they are wrong. If they want to do that, and if what they propose is nonsense, if it cannot convince the millions and tens of millions of workers in this country upon whose action the coming of communism must depend, the best way to fight communism is to put us on the public platform and let us talk, and let us make our useless argument. Nothing can come of it. We must convince millions. That is not an unreasonable request to make of this jury. But if we are wrong, let it be disposed of by public discussion. But if Communism is so persuasive that it cannot be allowed in the open forum of political discussion in the United States of America, then how are you going to oppose it by locking up a handful of men in the penitentiaries? If it is persuasive, it is because it correctly describes the development out of the dynamic forces at work all over

the world to-day. If it is right, it will triumph. It will find its way of doing it. It must triumph, because it is the response to the life needs of the people of the world. You cannot meet that question or proposition by locking us up in the penitentiary. Either way. If we are wrong let us be answered. If we are right, is this the way to fight us? Hardly an heroic way of meeting an argument which we are ready to present on the public platform. Hardly a way that would do credit to this jury as American citizens, to punish us because of our beliefs.

These theories were not born on July 5, 1919. We did not create them. They are written in books to be found in every library throughout the length of this land. I read your language out of a manifesto of 1847 in which you could see stated the same essential proposition. It has been stated over and over again for three-quarters of a century, thousands of books, papers, magazines, pamphlets, speeches, freely throughout the land, throughout the world. Now, all of a sudden, in the year 1919, somebody invokes the Criminal Anarchy Law of New York to say that the doctrines of Communism or of revolutionary socialism are criminal. That is a curious situation. There was a long time when we were familiar with that sort of thing happening over in Russia under the Czars. We knew there that people were put into jail because they had different ideas of what should be the government and the social system. There was a time when that sort of thing happened under the Kaiser of Germany and under Bismarck. They passed laws suppressing agitation of doctrine of this sort. To what avail? The Czar has gone. The Kaiser has gone. They did not suppress anything. They punished some men and put them in jail. You cannot meet a fundamental analysis of social development in a criminal court proceeding. You do not answer them here. If there is truth in them, it exists in all sorts of literature, and picking out this one piece of literature and punishing somebody on the basis of that one article, where does that leave you? The doctrines are still there, if they are any good, they are going to be there in other publications, on and on, until there is victory on the basis of those theories; that is if they really express the development, if they real-

ly express the life purposes of the working class of to-day. Somebody will find a way of getting them to the ears and to the minds of those who are struggling for the chance to live.

More than that, we have got beyond the time now when it is a question of books or literature. We have come to the time when Communism is one of the biggest living forces in the world to-day, when it is the avowed policy of the greatest occidental nation of the world, when it is the living example to the workers of all the world, when it is the life inspiration to all who are longing for liberty of an economic system, where there is not the relation of master and slave such as exists where a few own the means of production, and all the rest must beg for the chance to work from time to time so that they may live. Communism having come to that stage, the irony of history, that at this time in American history, the state of New York should take up these doctrines which have been proclaimed throughout this country all of the lifetime of any man here, and suddenly proclaim them as criminal. What a satire on the very idea of a trial for crime.

It has been said here by repeated questioning: You have not been to Russia, how do you know what has happened there? There have been just about two hundred thousand years of human life. That is a guess, about two hundred thousand years. Only three thousand years, maybe a little less, is recorded in books of history, written by people who lived at that time. Modern science has gone beyond those books and by exploration and other means has extended out into the backward ages, so that we know pretty well just how people lived on this earth, say, for one hundred thousand years. We know how they were organized, what kind of tools they had to live by, and what therefore must have been their method of work and of life. We know quite a bit about them. Of course, none of us lived one hundred thousand years ago or three thousand years ago, but we have enough information to have pretty definite opinions about it. Some of the points are not quite clear, there is room for dispute, but we have enough definite information so that all of us have some sort of opinion about what has been the past life

of the human family. Take the world war. I do not now that anybody who sits here to-day saw any part of the world war. Suppose that we were in France, how much with our own eyes could we see, fighting going on along hundreds of miles of battlefield? We could not see very much, even if we were in an airship we could not see very much. We would not know the net result of that fighting, but we do know a good deal about the world war. We did not see anybody killed there. Perhaps nobody here saw anybody killed or wounded, yet we know, because there have been official compilations and unofficial compilations that something like twenty million men were killed in the world war. We know quite exactly that about 100,000 American boys lost their lives in the world war. We know that many other thousands were maimed and gassed in that war. We know a whole lot about the world war. We know what a ghastly thing it was. We can estimate pretty closely what it cost out of the world's wealth for the war. I can see whether they were arrived at by good accounting methods. I can say whether the analysis is one that meets with the logic of my own mind. If it does, I can accept it. I can state some figures of the cost of war. They may be open to challenge, but we would agree pretty well on approximate figures. You see, we know lots of things that we do not see or hear about ourselves. It is very curious logic. We cannot know what we have not seen in Russia. We cannot know what we have not seen in the past, but the whole basis of this prosecution is that we can know minutely and to the last detail just what is going to happen in the future. That is the proposition of the prosecution in this case. Mr. Ruthenberg and Mr. Ferguson, just how is this revolution going to happen? You ought to know. You talk about it, you write about it. Let us go there and let us have every last detail about it. Where will this man be and that man be, and just what will happen? You ought to know that. What do you talk about it for if you do not know what is going to happen ten or fifty years from now? Of course, you have not been to Russia, so that you cannot know about that. You may have talked to fifty people who have been there, and made up your mind as to who was telling the truth, and to what extent you



had to guess about it, but you cannot know about that; but as to the future, yes, you can know; yes, you can know just how much blood will be spilled before you have Communism, and the reason that you do not tell us is that you do not want to. You know it. How can you help answering it? You know it is going to happen. Isn't that the logic of the prosecution, all based on deduction and inference as to what might happen because we desire a certain kind of social change? And his Honor, in inquiring from Mr. Ruthenberg, said, "Do you think that the property owners of this country, having to some extent at their disposal armies and police, will give up their property without fighting for it?" I surmise that his Honor does not think so. I do not know. I could make a guess about it. I do not happen to know just what is going to happen. I have a little different way of looking at that. I am not disposed to lay it down as an absolute proposition that men and women are always and everywhere going to act upon the basis of the lowest human impulse that I can attribute to them. I do conceive that men will relinquish property rights if they are faced with a human situation of suffering. I know it has happened.

Doesn't everybody know that great day in the State's Assembly in France, when the feudal lords of France came in and said, "We will give up our feudal rights, we will voluntarily surrender them and ease the burdens of the people"? History rings with it yet. They tried to back out. They trimmed. They would not pass the necessary legislation to do that. The peasants had to fight to get rid of the onerous burdens of the feudal taxes. But it did happen. Those men under that impulse, facing the deprivations of the thirty million people of France, did for a moment realize themselves and respond to the generous human impulse. That happened in Hungary just a little while ago. The capitalists there saw that they could not meet the situation. broken down, politically and economically. What did they do? There happened to be rather more enlightened men in charge, and they said, we will not force a civil war upon the people of this country. We will let those come into power who seem to have a program for carrying on the life of the nation. We will hand the government over to

the Communists. That is what happened in Hungary. Not one drop of blood. November 7, 1917, in Russia, what fighting was there? One little fusillade of muskets, and a few of the Bolshevik forces killed. No record that anybody was killed on the other side. There was some fighting, yes. There was some fighting.

There was a reign of terror in the French Revolution. Will you condemn the French Revolution because there was blood shed? We are sorry that there was a reign of terror. I think any of us feel badly about that, and we think it went too far. It might have been excusable to save the nation from attacks of invading armies, but it was carried too far and became a means of contest between the different revolutionary groups themselves. But there is the glorious French Revolution, the inspiration for political liberty the world over, the greatest impulse to liberty in modern history, one of the great things of all history. Condemn the French Revolution because there was bloodshed? Not at all. Nor the Russian Revolution. We do not know what is going to happen in the future, but if you convict us here, it will have to be because somehow or other you have a way of knowing what is going to happen in the future. In how many countries did men voluntarily relinquish chattel slavery? We had a Civil War. Many other countries did not. They got rid of chattel slavery. There was compensation in some instances, maybe adequate and maybe inadequate, but the system of slavery was disposed of not so very long ago, mostly between 1800 and 1850 in most of the countries of the world, and only in the United States was there a Civil War to get rid of the system of chattel slavery.

I don't know just what may happen, but it seems to me a far-fetched proposition to ask this jury to imagine what might happen because, forsooth, Socialists say, as Vandervelde writes, that in all probability there is in such a change the prospect that at some point there will be a collision, a forcible collision between the two opposing groups. That sounds like a common-sense proposition, but we do not know what is going to happen. To convict us in this trial you would have to know everything we put into our document, and give us the burden



of everything that might happen because we desire a certain change in society. That is the logic of this proposition.

There has been a suggestion here of a proposal that the workers shall go and seize the industries, directly grab the factories, take the property from the owners, under the present existing government. I think that has been cleared up by the testimony in this case. Strangely enough, that is what did happen in Italy. On account of a lock-out, the workers, refusing to be locked out, continued the factories, took them over, seized the factories. They did not establish a working class government. It all came to nothing. Dissipated. That is not the proposal of Communism. It is not a sufficient proposal. No proposal is sufficient which does not recognize the need of a central organ of power to maintain the workers and to make it possible gradually to carry out the process of expropriation. The Communist proposal is to set up a working class power, a working class government, with a program of expropriation of capital. It is not a proposal to go and take somebody's property, to steal anybody's property. It is the proposal that property shall be taken by a new government when it is constituted, by the working class.

There is another aspect of this case, not so important, but one I might suggest. There is nothing in this Manifesto which is an appeal to the general public. There is no platform asking anybody to do anything. It is the Manifesto, issued to members of the Socialist Party, asking them to change the policies of the Socialist Party. This whole situation arises out of a clash within the Socialist Party as to what is socialism, as to what should be the policy of the Socialist Party. This conference, called for that purpose, adopts the program for that purpose, adopts the Manifesto, and says, now we will capture the Socialist Party, and in the future this will be its policy. So this Manifesto is written, this program is written to lay down a basis, and in the future, undoubtedly, there would be platforms issued upon this theoretical foundation. The time on which this indictment is based, July 5, 1919, there is no such thing as a platform calling for any action. There is a theoretical

dissertation as to what should be the policy of the Socialist Party. Now, the law speaks about advocacy, speaks about teaching, advising, advocating the doing of certain things. Now, to my mind, that means something of an active principle. If you advise or teach or advocate, you direct the minds of people to action, and precisely what this law had in mind, urging people to do something, to do something that is force, to do something that is violent, to do something that is an unlawful act against organized government. Now, usually, in a criminal trial, you are met with the proposition of actually injuring some person or his property. The next step is asking somebody else to do that for you, soliciting an act. Now, then, we make a big jump when we come to dealing with a doctrine. You set certain ideas afloat in the atmosphere, and then maybe somebody might do something. It seems to me as a sensible proposition, if you are really talking about crime, you ought to have some direct relation between the man who speaks or writes and somebody who might do something; you ought to advise or teach somebody who might do something. That is the way this Manifesto should be read in connection with this indictment, to my mind, but here is a Manifesto which goes forth to the members of the Socialist Party and says these are the Left Wing theories and we advocate that the Socialist Party shall proceed on this basis.

Of course, the ideas are there, and somebody might say, well, it is enough, if the ideas are there, maybe somebody might do something about it, whether you asked them or not. Rather a remote proposition, a long way from the idea of crime, the idea of doing something either with your own hand or with your mind directing the hand of somebody else. It seems to me pretty clear that the men who wrote the Criminal Anarchy Law had a very definite idea that they wanted to reach out to the people who asked others to do certain things, and they define those things, force, violence, assassination or unlawful means against organized government. They were trying to reach the people who taught, advised and advocated the theory of those things. It seems clear that they had in mind something in the nature of definite

acts, not simply that you would say we want a new society, and then a prosecution would get up and say, if you want a new society you have got to get rid of me because I do not want your new society, and you have to hit me over the head to do it and therefore you advocate force. That is the logic of the prosecution, but I am sure the logic of the law is something different, that there must be direct advocacy of acts which you now can see by reading in plain words are acts of force, acts of violence, unlawful acts. Not go off into the future and speculate as to what kind of a strike a strike might be, as to what might happen before actually there is a transfer of power from one class to another. I think that is a point to bear in mind on the actual charge made in this case as to an advocacy. One thing, in order to find the unlawfulness in something that is going to happen in the future, you must first decide that it is all going to happen. That seems clear enough. You must decide that all this should come to happen just as it is forecast, and then you can go on imagining just what might also happen in that process.

There is a definite doctrine which I believe this law is aimed at, a doctrine that is known under various names, terrorist, anarchism, criminal anarchism, any name that would describe the doctrine, that individual persons shall show their opposition to organized government by assassinating officials, by throwing bombs, by doing the things that one individual can do to show an opposition to government, and I believe that is what the Legislature was aiming at. There has been such a doctrine, and that is what I understand by criminal anarchy, but you will take in mind whatever the court here adds to that definition. The question may be put this way. Well, you say you do not know what is going to happen, but how could it happen any other way? As long as we are speculating in futures, under the rule of reasonable doubt, it is the duty of the jury to speculate our way rather than the way of the prosecution. You remember that the demand in Russia during the summer of 1917 was for the constituent assembly, that was the demand made by the Bolsheviks in Russia. They thought that the constituent assembly would be the organization in which

they would win the power. That was the demand all the time between the March revolution and the November revolution. When the Constituent Assembly finally came, it had lost its place in history. There had already grown up the Workers', Soldiers' and Peasants' Council, an organization able to take care of the people of Russia, accepted by the people of Russia, and when the Constituent Assembly arrived, nobody was interested in it, and it passed away.

Now, out of the mass action that we talked about, out of all the ways that the workers might demonstrate their power, might make their demands for change here, just a word, it is possible that there may be a Constitutional Convention called here under the clause in the Constitution which states that two-thirds of the Legislatures of the United States can call a Constitutional Convention. You do not know what response the existing government might make to the demands of its people. What is the difference how those demands are expressed? They do not have to be expressed by voting. Suppose the people all paraded before the Capitol building and ten million people said we want a Constitutional Assembly. They say, you vote for it, we demand it. What is to prevent the Legislature from establishing a convention changing the government of the country? Nothing whatever. If you want to speculate in futures, you can speculate as to lawful, peaceful revolution in the United States. The demand might be made for everything that is demanded in the Communist program, for the dictatorship of the proletariat, expropriation of capital, the soviet form of government, all these things might be made the basis of a demand for a constitutional convention. I am not arguing that is going to happen. I am showing you the logic of this case, that you must go on and speculate as to what might happen. We could build up here a dozen theories of a revolution in the United States, which in no way involve force, violence or unlawful acts, as long as you are speculating about it. The law compels you to apply the rule of reasonable doubt in favor of the defendants. The point is that there are no proposals in the Manifesto which are of themselves proposals of force, violence or unlawful means.

If you are going to find them, you will have to read them into the Manifesto on account of what might happen in the future. ,

Now, the Court here has made the statement that a majority of the people of this country cannot change the government of the United States. That is literally correct, but because it is a literally correct statement about the Constitution as it now exists, I do not therefore accept it. It is not my idea, as an American citizen, that that is right. I think that the majority of the people of this country have the right to change the government of the United States, and I think they have the right to organize themselves any way to accomplish that change. The fact that way back in 1787 somebody figured out a way whereby the majority of the people of this country could not control their own government is not binding upon my conscience. Yes, it may be written into laws and be binding in certain respects. I am a lawyer. I conform to the requirements of the law in the exercise of my profession. I recognize all the rules, I keep myself within the rules. That does not mean I approve of this process. I am a part of it, but not part of it. I conform to the rules. That does not mean that I think that this system of law which brings me before you on a charge of crime is right. No, it is not right. From all that I know of Americanism, it is not right. It is not a process of which I can approve as a lawyer, but so far as I enter into it as a lawyer, I accept its rules and conform to those rules. But I do not believe it is right that a majority of the people of this country should not be able to change the government of this country.

Now, of course, it is a question what they can do, it is a question of what we can advocate about it. I have said here we have not advocated anything that comes under the Criminal Anarchy Law. We hear a good deal nowadays about Americanism, about 100 per cent. Americanism. I am sure Mr. Rorke will tell you that we are quite un-American, that our doctrines are alien, that we have nothing to do with the United States or Americanism, but I do not hold myself bound by any definition of Americanism that may be presented by Mr. Rorke. I happen to know what Americans have said, Americans

who I think understood the traditions upon which this nation was founded. I happen to know their ideas of what is Americanism. I think that there is nothing in what we have stated about our sympathy with workers in other lands, about our sympathy with the workers and their struggles in Russia, about desire to unite ourselves with workers all over the world, in order to change the economic system of society, and along with it, the political system, I think there is nothing about that which is not true to the traditions of Americanism.

Let me read a few things that have been said by men who I think have correctly stated the meaning of Americanism, and let us see how far from the mark of Americanism we stand in the declaration that today, as American citizens, we are Communists and believe in the revolutionary change of the social system.

I will quote what Thomas Jefferson, in a letter from Paris in 1787, writing to Mrs. John Abigail Adams, as to Shay's rebellion in Massachusetts: "The spirit of resistance to government is so valuable on certain occasions that I wish it to be always kept alive. It will often be exercised when wrong, but better so than not to be exercised at all. I should like a little rebellion now and then. It is like a storm in the atmosphere." Writing later that same year to William S. Smith, November 13, 1787: "God forbid we should ever be twenty years without such a rebellion. What country can preserve its liberties, if their rulers are not warned from time to time that their people reserve the spirit of resistance? What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure."

I am conscious that Woodrow Wilson said many things which have nothing to do with his own actions, I am not quoting him for his own actions, but for what he says as a student of American History.

Here is a statement of Woodrow Wilson that perhaps many have seen recently, said in a speech: "We have seen a good many singular things happen recently. We have been told that it is unpatriotic to criticize public actions. Well, if it is, then there is the deep disgrace resting upon the origins of this nation. This nation

originated in the sharpest sort of criticism of public policy. We originated, to put it in the vernacular, in a "kick", and if it be unpatriotic to kick, why then the grown man is unlike the child. We have forgotten the very principle of our origin if we have forgotten how to object, how to resist, how to educate, how to pull down and build up even to the extent of revolutionary practices if it be necessary to readjust matters. I have forgotten my history if that be not true history."

No doubt you have seen what Lincoln said in his first inaugural address: "This country with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amendment, or their revolutionary right to dismember or overthrow it." That is the doctrine of Americanism. And this is stated in the sentence that is better known than any other sentence to American citizens, out of the Declaration of Independence: "All men are created free and equal, and endowed by nature to certain inalienable rights, such as life, liberty and the pursuit of happiness, and to attain these rights governments are instituted among men, deriving their just powers from the consent of the governed, and when that government becomes destructive of these ends it is the right of the people to alter or abolish it and institute a new government in such form as shall seem most likely to effect their safety and happiness."

I do not think we are far away from the fundamentals of Americanism in advocating communism in the United States in 1920.

Just why after this time of socialist agitation, after these many decades in which these ideas have been freely disseminated in all sorts of literature, just why were they brought into the criminal courts of New York within the past year? I think there are two explanations. One is the war hysteria, the zeal of patriotism which became something else by its own process, which has gone so far as to become a terrific spirit of reaction, because it has been used by men for purposes other than patriotism. That is one thing. The war has brought an hysteria about all sorts of radicals, but that has gone by.

Technically we are still at war, but the war is over, and that hysteria is probably dying out. There is something else though.

We have come to the time when the words of the books are now a living reality, when communism appears as a living thing in the international arena. What is being attempted here, by seeing the possibility of these things come to life, there is the attempt to stave it off, to fight the shadowy hordes of the future by striking at those who express the ideas today. That is the reason for prosecutions such as this. The actual belief that the masses of America will not long tolerate the system of economic life such as exists in this country; the attempt to fight the future by fighting ideas today.

Now, no matter what is said about the Criminal Anarchy Law, either by the prosecuting attorney or by the Court, how can you get away from the absolute fact that the only thing that we have done is to express ideas? That is our crime if there is any crime. If there is going to be any action it is because the masses of America are some day going to act along the line of these ideas or similar ideas, and here is the idea, to fight the future battle by picking out a few individuals, bringing them into the very courts that are woof and warp of this system of organized capitalist power; bringing these individuals into such a court and putting them up against the very system that they are opposed to, and asking them to plead according to the practices of criminal law. I have not felt at any time during this case that we are the defendants, and this indictment which says that the people of New York charge us with crime is false. It is a mere empty form, and I am talking to twelve of the people of New York now. You did not bring this charge of crime against us. I am satisfied that you are going to act here on the law and the evidence, and not on prejudice; that you are going to act on the true traditions of America, and I do not believe that you are going to make good that statement that the people of New York have charged us with crime.

I believe that the real defendants here are those who are responsible for this prosecution. There are some things worse than going to jail—many things. To my

mind the worst thing is to not stand square with the convictions of your own mind. I think you have had every evidence here that the defendants stand upon the principles which they have professed as communists, and if we ever go to jail by reason of this trial, or any other trial, we can go to jail as good soldiers in the cause which we have espoused. But what glory to the people of the State of New York, that the machinery of the court is used to fight the real fight outside, the fight between entrenched economic power and the empty handed toilers of this country. Do you call that a fair deal, an American way of fighting? It has not been, gentlemen; it has not been.

Only once in American history before 1917 was there such a thing as prosecution for sedition in this country, only once. The New York Law was put on the books in 1902, and there it remained until last year, 1919. It was on the books, naturally, a response to the indignation at the assassination of McKinley, a natural indignation, a natural response. Until the court holds that law is unconstitutional, it is there on the books, and it is not for us here to question whether or not it is constitutional. It is on the books. It is a valid law. It is in effect here, but it was not used in 1919, and before that, and before 1917 when came the Federal Espionage Law, there were 117 years in this country without any such laws on the books, just because before that, 1789 to 1800, there had been the Alien and Sedition Law of the John Adams Administration. Another situation like we have here, the time of the French Revolution. The general hysteria and scare of the property interests. That went with the idea of revolution, although it was thousands of miles away, and at that time under the Federalist Administration of John Adams that law went on the books and remained there just three years because the election of 1800 was fought out on that issue and Thomas Jefferson came to the presidency and the Sedition Law disappeared. All who had been jailed under that law were freed. More than that, Congress paid to the families of those men damages on account of their imprisonment, by special legislation. Every historian has referred to that law as a disgrace to the early history of America. The Federalist Party

went out of existence on that issue in that election, and never could come back, never could make another appeal to the Americans at the time of the Revolution. For 117 years no such thing as a prosecution in the United States on account of the expression of ideas—not one. That is American history. That is the tradition behind us.

Always in the references to the Adams Sedition Laws, it is emphasized that the law was ended and the prisoners were released, but one point is ignored, that there were juries for three years who did convict some men under that law. That to my mind is the big point, that when you get a situation like that, when you have an hysteria like that, there is a coercion in the very fact of a criminal process which makes it possible for a jury to forget its bearings as to the traditions of the country, and there were convictions under that law. I am sure that the jurors who convicted men under the Adams Sedition Law were not of easy conscience after a few years had gone by, but at the time, under the excitement, under the pressure, under the fearfulness of a criminal process they did convict, and that to my mind is the big thing; that you can grasp the minds of men by a reactionary propaganda, by shouting Americanism all over the country and down with the Reds, and shut up the agitators, that they are the cause of the whole thing. If they are the cause of all the trouble, they are not the ones who are getting anything out of it. No, they are not bothering you. They are not coming into your homes and taking anything from you, but some persons are, because all of us have felt the pressure of enormous profits; all of us know something about the prices here. All of us know that somebody has been getting something, and as Woodrow Wilson says they are the ones that are shouting the loudest about Americanism and against radicalism. The communists are not doing anything against you. It is the profiteers you have been hearing about, and they are not in court before you. No, it is those who condemn the profiteers that are brought into the court before you as criminals.

Now, I say I am talking to the People of the State of New York, and I do not expect you to make good that indictment which says that because Ruthenberg and

Ferguson have these ideas about changing the social conditions, therefore we will call them criminals under this Criminal Anarchy Law of 1902, passed under the spur of the indignation at the assassination of William McKinley. There never has been a prosecution for advocacy where it was not contended that immediate disaster would occur if these ideas were not suppressed. Somehow or other men talked in 1919 and 1920, and they said that although it might have been true that in the Spanish Inquisition people were persecuted, now they are being tried for crime. Don't you suppose that the men of the Spanish Inquisition felt if they did not shut up the heretics that immediate ruin would occur? How about the Pilgrim Fathers that tried people for witchcraft? They thought there was real danger. There was disease and there was possibly insanity and crime, and they could not explain those things. They did not know as much about medicine as we know now. They could not diagnose such things, so they said people were bewitched, and, "We have to get rid of the witches because they are causing these things." They thought there was immediate danger there, and they killed the witches. That happened here. That happened right around us in the very territory that we now inhabit. They thought there was imminent danger. The prosecution will tell you here there is imminent danger, because if you let these ideas disseminate people will be bewitched and they will do things now; they will do violent things, always forgetting that the real force is here, just as the colonial inhabitants of this country did not know what the real forces were which accounted for those people being bewitched. They could not explain it. Therefore they persecuted them. The same idea as to universal suffrage when that was first proposed. The answer was, "No, you will bring down the very foundations of society if you let the rabble vote." Oh, there were worse things said about universal suffrage than the prosecutor here can think of saying about communism. Far worse things! It was considered a terror that anybody should be allowed to agitate universal suffrage, and even universal education. Yes, in this country, men were fearful of the danger of educating the masses. They thought

education should be the privilege of the gentry, of the well to do, not of the masses, and they condemned universal education, and said it brought with it in its wake the danger of immediate destruction. Every time that there has been persecution for ideas, there has been the claim that there is danger of immediate disaster; that they are not against the ideas, oh, no. We can say whatever we want to if we do not say it this way or that way, but if we do, then we are criminals. They try to back it up by saying something is going to happen because we say it. Now, gentlemen, nothing is going to happen because we speak, and it is not going to be any different if we are silenced for a while by being put in the penitentiary. If anything is going to happen, it is going to happen because life forces are developing which are going to create changes in the social organization.

Now, what have you heard here as to the work of the Communist organization or as to our work as communists? It seems to me that if the indictment is a correct charge that you should have heard something here about our advising people to get a lot of lead pipes and the materials out of which to make bombs, forthwith to blow up certain buildings and certain persons. It seems to me if the indictment means what it says, that is what you should have heard in this case, but the programs you have heard and the statements made by the defendants as to their work, what has that referred to? To education, propaganda; to the publication of books, papers and pamphlets; to the organization of study classes, to the better organization of workers in unions to cope with the immediate problems of living and to prepare themselves for the bigger work of a revolutionary social reconstruction. A work of guiding the working class action which is going on, a work of bringing understanding in to the fundamental life processes of today. That is what you heard of in this trial, and it is out of that sort of work on our part that you must find "force, violence and unlawful acts," charged against us by this indictment. If these things are going on and these forces here are developing action, the work of education, work of propaganda, can only bring more symmetry, more order, more intelligence into that action. An action of large

groups of people that understands itself better, understands its own organization problems better, understands its own aims better is apt to be more orderly, is apt to be less punctuated by violence or by disturbances of any kind.

We are not talking here about inciting individuals to acts of hatred or to acts of vengeance against officials or against the government. What we are talking about is the large organization of the masses of the workers of this country, the process of growth, of constructive development. It is out of that sort of thing that you must find what is charged in this indictment. One thing that will be emphasized, I have no doubt, is the international character of this communist organization, with members in all countries, with a congress held at Moscow. I would like to ask you how is that any different from the international organization of the capitalists represented by the Chamber of Commerce with its international office at Paris? How is that any different? Why is it proper for the capitalists to organize internationally with their chambers of commerce and improper for the workers to organize internationally in order to bring about a change in the economic system?

There are a few things in the manifesto about government that I wanted to say something about. I will not read them. I have spoken a long time already. I will say it in one sentence.

All that is proposed about government is that instead of a system which in its nature and by its control is dedicated to the preservation of the privileges of a small group of capitalists, as against the great mass of the people, we propose a governmental system controlled by the working class in the interests of an organization of industry for the benefit of society as a whole; the substituting of one kind of government by another. That is the proposition as to government made in this manifesto.

Then it is said that the purpose is not only to conquer the capitalist State, but to destroy it. Yes, the purpose is to get rid altogether of the organization of political power in behalf of capitalism, and to put in its place the completely new system. It is to be destroyed.

That is the sense of that and that is what it means. It is further said that in this process government itself will undergo a change. That is obvious. A government whose main business is to organize the industry of the country is a different thing from the state which is the organized power of force of one class used against another class, and undoubtedly a government along the lines here set out will be something different. It will be, as the manifesto says, government in a new sense, a government which is the administration of society, a government which replaces the anarchy of capitalism with the ordered industrial system of communism.

## STATEMENTS BY THE DEFENDANTS AT THE TIME OF SENTENCE

The defendants waived stay of sentence, whereupon occurred the following:

The Court: Charles E. Ruthenberg, what have you to say why judgment should not be pronounced against you according to law?

Mr. Ruthenberg: I have merely this to say for myself, that I have in the past held certain ideals for a reorganization of society on a new basis. I have upheld those ideals and gone to prison for them when they were connected with the late war. I have stood by those principles in which I firmly believe, and I still stand for those principles irrespective of the result of this particular trial. I expect in the future, as in the past, to uphold and fight for those principles until the time comes that those principles triumph, and a new society is built in place of the present social organization. I realized from the beginning of this trial, as I have in any other trial that I have taken part in as a defendant, that this court, and all the instruments of this court, are merely a part of that organization of force which we call the capitalist state; and I expected no other result from an organization of the capitalist class to protect the capitalist system, than the result that has been returned by this court in this particular case; and, of course, accepting this as a case of class justice, a case of the use of the organized force of the state in order to suppress the desires of those who today are suffering under the oppression of the present system, I will accept the sentence in that same spirit of defiance, realizing that I go to prison because of support of a great principle that will triumph in spite of all the courts, in spite of all the organizations of the capitalist class.

Mr. Ferguson: I say for myself exactly what Mr. Ruthenberg has said, and I add that we have gone to trial here before a Judge who was challenged at the outset as unfit, by his prejudice, to sit in the trial of these

defendants. That Judge assumed to pass upon his own prejudice; that Judge has acted as the prosecutor in this case from beginning to end, and the act of the jury here, that is their unconscious part of the process as described by Mr. Ruthenberg. I have no anger towards the jurors here. I do not think they understand what they are doing. They are the unconscious instruments of this process, under which I went to trial.

Your Honor, I speak advisedly, I am a lawyer, I understand our system of government very thoroughly. That has been my special study. I think I know the history of the Constitution of the United States as thoroughly as very few other men in this country, because that has been my study. I have been fortunate in my opportunities for study, and it is out of my study that I have arrived at opinions which are called to trial here as crimes. I know enough of history to know that opinions have been called crimes before, but another generation has called them by another name. Your Honor sits here, as judges sat in that early part of American history, when the Alien and Sedition Laws were on the Statute Books, and there is no glory to those judges in American history today. In fact, I think the only case in which a Judge of the United States has been impeached was the case of the Judge who acted on the Alien and Sedition Law as your Honor has acted under this Criminal Anarchy Law of New York, the man who was the specialist along this line of persecution. Persecution, I say advisedly, although I have acted as a lawyer in this case, and have been designated as an officer of the Court. Since that has been referred to, I want to say one thing about that, so long as I have been a lawyer, I am certain, and I think that I can establish that by every association that I have had as a lawyer, that I have upheld the very highest ethics of the profession. Accepting my duty as a lawyer, I have conformed to it, but I have never believed that being a lawyer, being an officer of this system to that extent, that therefore my conscience was bound by the political system under which I have acted. I have believed that I have the same right of opinion of one who is in any other walk of life. I believe that those are two distinct propositions, which can be properly held apart. I



believe that I have functioned as a lawyer according to the oath which I took in becoming a lawyer. But I say, as a lawyer, that this has not been the process of a criminal trial as I know it as a lawyer. Your Honor has rewritten the Criminal Anarchy Law, told this jury that the Criminal Anarchy Law means something which the Legislature of 1902 never meant, and I said early in this case that I could produce the language of the Legislature to show what they meant, and not once during the case has that challenge been met. Instead of that, your Honor has advised the jury contrary to what your Honor knew the Legislature had decided in 1902, but all that is beside the mark.

Our ideals for re-organization of society have been stated by Mr. Ruthenberg. It is in the light of those bigger issues that I stand here ready for your sentence, and your Honor has no real power over these defendants. All you can do is to deprive us of our liberty for a short time. You have no power over our minds. You have no power over the minds of the men and women in this country who believe as we do, and they have the real power, because they are speaking for the mass life of this country, they are speaking for the tens of millions who are building this country, who are creating its wealth and its power, and who, sooner or later, will demand the reward of their own toil. And they will find the appropriate way of getting that. Never before, in any public forum of America, have I heard anybody say in the cynical way that your Honor has said—with great contentment, that this is a government where the majority of the people cannot control. That is your cynical attitude, and it is upon that basis that I have said that you could not sit here as a Judge, not because you would not deal with us personally with courtesy. No. I say it now, quite impersonally, I have no passion against your Honor, no more than I have against the jury. I think I see this whole process in its proper perspective, and I am ready now to accommodate myself to the further order of your Honor.

The sentence, as to each of the defendants, was an indeterminate term of imprisonment with minimum of five years and maximum of ten years, at hard labor.

## THE NATIONAL DEFENSE COMMITTEE

When the Communist Party and the Communist Labor Party met in convention in Chicago in the summer of 1919, both adopted programs based upon the Left Wing Manifesto and the Manifesto of the First Congress of the Third (Communist) International. Both programs emphasized certain principles of Revolutionary Socialism; that in order to bring about Socialism capitalist governments must be overthrown and a workers' government — the Dictatorship of the Proletariat — must be established; that parliamentary forms were not adapted to the proletarian dictatorship, and must be supplanted by a Soviet form; that in a class society the dominant class would exercise every conceivable measure to make itself secure in its position of dominance. Current historical events were referred to, notably the general strikes of Winnipeg and Seattle, which were commented upon as significant signs of the times.

Both Parties immediately proceeded with the task of propaganda and organization. Literature setting forth the communist position received an extensive circulation. Organizers were sent forth, into the factories, the mines, to the railroads, out on the highways and byways where workers congregate.

Then in January 1920 Attorney-General Palmer, giving ear to the buzz of the presidential bee, ably assisted by divers states' attorneys, and as unscrupulous a crew of sneaks as Czar Nicholas could boast in the height of his power, staged the so-called "red raids." Thousands of men and women were rounded up like cattle, hurled into filthy jails, man-handled, third-degreed, and had every sort of indignity heaped upon them. The raids in Boston, New York, Detroit, Chicago, in practically every industrial center in the United States make a chapter in the Book of White Terror that must make the bones of the revolutionary fathers do stunts in their graves.

Hundreds of these men and women, aliens, were held for deportation. Other hundreds were indicted for violation of State "anti-sedition", anti-syndicalist" — "criminal anarchy" statutes. In Chicago 85 members of the Communist Party, 38 of the Communist Labor Party,

and 37 of the I. W. W. were indicted. In New York indictments were returned against Ben Gitlow, Jim Larkin, C. E. Ruthenberg, I. E. Ferguson and Harry Winitzky. From the Atlantic to the Pacific the states furnished their quota of victims to the White Terror.

Both Communist Parties were temporarily demoralized. Those who escaped the drag-net went into hiding. The work of propaganda and organization had to be abandoned for the time being while the shattered forces were mobilized for defense. Local Defense Committees were organized to meet the local needs. Much work of this nature was duplicated in various places. Co-ordination of defense work was imperative. The answer was the National Defense Committee.

In New York Ben Gitlow was tried, convicted and sentenced to from 5 to 10 years in Feb. 1920. Jim Larkin met a like fate in April. In October 1920 C. E. Ruthenberg and I. E. Ferguson were given sentences of from 5 to 10 years. In November 1919, Ignatz Mizher was given a sentence of from 5 to 10 years in Cortland, N. Y.; while Carl Paivio and Gus Alonen were given similar sentences in New York City during the same month. In July 1921 Paul Manko was sentenced to from two and one half to nine years. Treatment Manko received at the hands of the authorities was so severe that his mind was shattered and he is now in the Hospital for the Criminal Insane at Dannemora, N. Y. These men are now all in prison. Their cases are being appealed in an effort to secure their release.

During the month of December 1921 indictments for violation of the infamous "criminal anarchy" act of New York against Edward Lindgren, I. Amter, and A. Jakira, were dismissed on the grounds that the material to be used against them had been unlawfully secured. Their arrests occurred April 29th, 1921. In Cortland indictments against seven men for violation of this same law were amended, whereupon the comrades entered pleas and sentence was suspended. They had been arrested in November 1919 at the time of Mizher's arrest.

Most deportation cases come to New York as the port of departure. On April 8th, 1921, 38 deportees were at Ellis Island expecting to leave for Europe on the 14th.

Twelve of them were married and brought their wives along. There were 24 children. Then the Soviet Government closed the Russian frontier to any one from the United States until the U. S. Government modified its attitude towards the Soviet Government. This meant that the deportees would be held on Ellis Island for an indefinite period. The Island authorities refused to provide for the dependent women and children of the deportees unless arrangements were made to pay for the food they ate. There was no alternative, and the N. D. C. arranged through its attorneys to pay the Island Commissary Department for the food issued to the dependant women and children. On May 31st the Commissary Department rendered a statement: "2065 meals — \$370.69." This item was paid by the Defense Committee. The release of the 38 men was secured under bail during the first week in June. Since then there have been occasional deportees sent to the Island whose interests have been looked after by the National Defense Committee.

On April 25th, 48 men and women were arrested in Philadelphia charged with violation of the Pennsylvania "anti-sedition" Act. Of those arrested indictments were returned against 38. Bail was set at \$2500.00 each. After much difficulty the necessary bail was raised and the comrades were released, whereupon the federal authorities instituted deportation proceedings against 30 of them setting bail at \$1000.00. This, too, was eventually secured.

In March 1921 Harry Belavsky was arrested for an alleged distribution of illegal literature. His trial was hastened to such an extent that it was impossible to provide an adequate defense. Belavsky was declared guilty. The defense moved for an arrest of judgment. About the same time Comrade Burke was indicted in Luzerne County under almost identical circumstances. Here a motion to quash the indictment on grounds of error and faulty construction, and what is of greater significance, on the grounds of ambiguity of the Act itself, was sustained. In his decision Judge Fuller stated that "the Pennsylvania Anti-Sedition Statute bore evidence on its face of being one of the ill-considered and hastily passed laws influenced by war hysteria." Basing

his opinion on the decision of Judge Fuller, Judge Smith ordered Belavsky released. This should have ended the prosecution of the 38 Philadelphia comrades. But these are not ordinary cases. Nor are these normal times. The district attorney appealed from the ruling of the court in the Belavsky case and pending the decision in the higher courts those comrades will remain under indictment. In the meantime \$125,000 in bail is indefinitely tied up.

In Pittsburgh there are 14 "anti-sedition" cases and 5 deportation cases. One of the deportation cases has been dismissed; one comrade has been deported, and another ordered deported. Of the State cases one has been sentenced to from 3 to 5 years and \$1000 fine; one to a year and \$100 fine; two to nine months and \$100 fines; and one is in jail pending sentence. The others are at liberty under a combined bail of \$15,000.00.

In Ohio there are 12 cases. No action has been taken relative to four of them; one has been disposed of; Stephen Bobich, Akron, is now on Ellis Island awaiting deportation to Yugoslavia; and the others are at liberty under bail pending disposition of their cases.

There are five deportation cases in Michigan. One of these, Gerski, was held in jail at Flint under \$10,000 bail. He had been in jail four months. This outrageous situation was taken up with the Department of Labor at Washington and our attorney secured a reduction of bail to \$2000.00. All the Michigan Comrades are now released under bail.

In Illinois, the Chicago Communist Labor Party case, involving nineteen comrades, is before the Illinois Supreme court. They had been convicted and sentenced to from one to five years in August 1920 after a sensational trial lasting 12 weeks. Deportation proceedings have recently been cancelled in two cases, while stay of six months has been secured in another.

Wisconsin has 13 deportation cases. In August 1921 the Federal Court ruled against six of the comrades and ordered their deportation. An appeal has been taken and the other seven cases are being held in abeyance pending the ruling from the Court in the first cases.

The J. O. Bental appeal was decided against the

defendant in the Federal Court of Appeals during the past summer and he was ordered to begin serving his sentence. This case involved an alleged violation of the war time Espionage Act. The case is now being taken to the U. S. Supreme Court in an effort to secure a reversal.

The Jack Carney case is pending before the Federal Court of Appeals. Carney had published an article in The Truth: "Hands Off Soviet Russia", in the fall of 1919. For this he was given a sentence of 2 years in Leavenworth. The Appeal will be argued during January.

The Cannon-Baker case is set for the latter part of January 1922. This case grows out of the arrest of the comrades for speaking in the Pittsburgh, Kansas Coal Fields during the miners' strike in November 1919. The charge is violation of the war-time Lever Act. Of course the war had been over a year when the alleged offense was supposed to have been committed. But it is an illustration that anyone who participates in the class struggle on the side of the workers does so at his peril.

There have been numerous local cases that have been taken care of by local affiliations of the National Defense Committee which have not been reported to the National Office. These have been of greater or less seriousness, but have been satisfactorily taken care of.

During the year 1921 defense receipts of the N. D. C. national treasury have been \$20,862.91. Disbursements for defense, relief, and administration were \$20,292.70. On account of the cases enumerated in this report the following amounts are needed on January 1st, 1922:

New York .....	5,248.00
Philadelphia .....	1,148.00
Pittsburgh .....	2,545.00
Ohio .....	700.00
Milwaukee .....	1,000.00
Cannon-Baker .....	2,500.00
Jack Carney .....	175.00
J. O. Bental .....	300.00

Defense needs Jan. 1st 13,616.00

The above does NOT include the weekly budget for relief of the imprisoned comrades and their families.

Has the National Defense Committee a place in the working class movement? Should it be given support? Those comrades who have been arrested throughout the country and held for trial and possible imprisonment or deportation know. And their families know. The N. D. C. has been their sole recourse. They have been furnished every possible legal service. In case of conviction their cases have been appealed. They have been made to feel that they do not stand alone. And when in the course of their activities they have felt the crushing heel of the capitalist state, the National Defense Committee has come to the front as the Red Cross of the revolutionary working class.

Thousands of dollars are needed at once to carry on the appeals of the comrades who have been imprisoned. Other thousands are needed to furnish adequate defense for those who are facing trial. Comrades held for deportation must receive every possible legal service. And we urge a generous response to our call for funds. Make remittances payable to THE NATIONAL DEFENSE COMMITTEE and mail to Edgar Owens, Sec'y-Treas., 7 Bank Street, New York City.

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